

## 1       UNCERTIFIED ROUGH DRAFT

2       This is the deposition of Treasurer Dillon.

3       MS. NELSON: This is the for purposes of

4       the record of the Governors deposition that was

5       taken on October 9th. There was a request at the

6       conclusion of the Governors dep for the production

7       of an email which is the transmission email from the

8       Governors office to Kevyn Orr of what was marked as

9       Governor's Exhibit 2 which was his July 18th, 2013

10      letter authorizing the filing of the bankruptcy. I

11      have produced this email and provided it to all

12      counsel that are present today and we have agreed to

13      mark it as Governors Exhibit 11. The email is dated

14      Thursday, July 18th, 2013. It was transmit at 3:47

15      p.m. and the subject is high priority and the

16      attachment which is identified as 20130718155044034

17      dot pdf is identical to the attachment identified in

18      Governors exhibit 10 that was marked at the

19      deposition yesterday. And the subject matter I

20      would point out between Governor's exhibit 11 and 10

21      is also identical high priority. So the purposes of

22      the record we're mark this as Governors Exhibit 11

23      it is the email that was discussed and is now being

24      produced that was the transmission of the July 18th

25      letter from the Governors office to Kevyn Orr at 347

1 p.m. and I would also note on the record that the  
2 7-18 letter was attached to the filing that was made  
3 with the petition. I believe the time stamp for the  
4 court was 4:06 p.m. for that as well.

5

6 VIDEO TECHNICIAN: Today's date is October  
7 the 10th 2013 and we're on the record at 9:20 a.m.  
8 This is the video deposition of treasurer Andrew  
9 Dillon with the treasury building 430 west Allegan  
10 in Lansing Michigan. Can the secretary be sworn  
11 please.

12 Sworn sworn.

13 BY MR. SHERWOOD:

14 Q. Treasure Dillon good morning my name is jack  
15 Sherwood we represent AFSCME in the Detroit  
16 bankruptcy case. Thanks for being here today. Have  
17 you ever been deposed before?

18 A. I believe so.

19 Q. Okay. On how many occasions?

20 A. A couple probably.

21 Q. Okay. Let me just give you some of the ground rules  
22 as a reminder. My questions and your answers will  
23 be taken down by the court reporter and videotaped.  
24 You're under oath so it's like you're testifying in  
25 court. Do you understand that?

1 A. Yes.

2 Q. And to the extent that you can wait for me to ask a  
3 full question before answers that would be good.  
4 Make it easier for the court reporter. Your  
5 attorney might object from time to time and to the  
6 extent that she does, obviously you'll take your  
7 advice from her.

8 If you don't know the answer to a question  
9 or you don't understand a question please let me  
10 know. And I'll try to clear it up for you. Do you  
11 understand those.

12 A. Yes.

13 Q. Instructions?

14 Is there any reason why you can't testify  
15 truthfully today?

16 A. No.

17 Q. And are you taking any medications or suffering from  
18 any illnesses or under the care of a doctor?

19 A. No.

20 Q. For any medical condition at this time?

21 A. No.

22 Q. Okay. Can you just briefly -- you are the treasurer  
23 of the state of Michigan; is that right?

24 A. Yes.

25 Q. And can you -- how long have you held this post?

1 A. Since January 1 of 11.

2 Q. And what did you do before that. Just give me you

3 know your previous work history before that?

4 A. I served in the Michigan legislature for six year

5 the last four as the speaker of the house.

6 Q. And prior to that?

7 A. I worked for a private equity fund based out of

8 Chicago.

9 Q. What was the name of that fund?

10 A. Wind church capital.

11 Q. For how long were you an wind church?

12 A. Three years. Like '01 to '04.

13 Q. What was your position there?

14 A. I was a managing partner. I found opportunities for

15 them to buy companies to pie.

16 Q. And did wind church specialize in any type of

17 industry or financial products?

18 A. Middle market companies based in the midwest or

19 Canada was the focus.

20 Q. And how long have you known Governor Snyder?

21 A. I met him for the first time when I was in the

22 legislature and it was just a brief meeting. I

23 drove to Ann Arbor to meet him because Governor

24 Granholm at the time had announced the 21st century

25 jobs fund plan I had a private equity background but

1 not a venture capital background and his name came  
2 to me as someone who understood venture capital. I  
3 asked for a meeting drove to Ann Arbor we met for  
4 half hour to an hour, and I incorporated his  
5 thoughts and ideas into the 21st century jobs plans.  
6 And I didn't see him after that until he was running  
7 for Governor.

8 Q. And when was that about.

9 A. Probably 2010.

10 Q. Did he appoint you as the treasurer of the state?

11 A. Yes.

12 Q. And how did that come to pass?

13 A. Got a phone call in the fall of 2010, I believe it  
14 was, and they asked if I would consider the  
15 position. Initially I respectfully declined because  
16 I was ready to go back to the private sector and I  
17 reconsidered about two weeks later called back and  
18 said if you haven't filled it I'll do it.

19 Q. What was it about the job that excited you?

20 A. I was having lunch with a friend of mine. He just  
21 said hey it's a great opportunity why would you say  
22 no to that. And even though I had spent six years  
23 in Lansing I didn't fully appreciate the role of the  
24 treasurer for the state and so fascinating job and  
25 fascinating time to have it.

1 Q. When you say a fascinating time. What do you mean,  
2 is it because of economic challenges facing  
3 Michigan?

4 A. Locally primarily yes.

5 Q. Things like school boards and cities and the like?

6 A. Right.

7 Q. Did you have going into the job discussions with  
8 Governor Snyder about your view of the financial  
9 situations that existed in the local government  
10 units here in the state of Michigan?

11 A. I don't recall. There may have been some high level  
12 discussions in December '10 where we understood that  
13 there could be a lot of troubled cities and school  
14 districts in the cue so it was on our radar before  
15 we started but nothing about my philosophy, what I  
16 would do in this role.

17 Q. Okay. So when you say high level discussions, can  
18 you tell me what you recall specifically about the  
19 -- or even generally about the high level  
20 discussions?

21 A. We understood that we would be inheriting some  
22 financial crises throughout the state and we thought  
23 there was more to come. And but we never got into  
24 he didn't grill me about what's my philosophy and  
25 how would I approach the challenges that would come

1 our way.

2 Q. Did you have any relevant experience in your career  
3 as a legislator or speaker of the house or in your  
4 private career that you thought you could bring to  
5 bear to address the financial issues facing the  
6 local units of government here in the state?

7 A. A little bit. I have an accounting and a law  
8 degree. But I had three jobs that translated some  
9 relevance. I spent three years with GE capital. We  
10 tended to they were called the lender of last resort  
11 so we financed tough credits typically. From there  
12 I went to abrupt steel mill and helped the owner try  
13 to restart that mill, so that was kind of hands on  
14 operational restructuring.

15 And then a lot of the companies we chased  
16 at wind church would either be growth companies or  
17 turn arounds so I would say there was nine year  
18 window there where I had some experience in the area  
19 of turn arounds.

20 Q. What did you do to prepare for your deposition  
21 today?

22 A. About a month ago I had a meeting with a couple of  
23 attorney generals came to -- we didn't know if this  
24 deposition was even going to happen because I don't  
25 think the judge had ruled yet and then last week I

1 had a meeting to prepare. I think that meeting  
2 lasted about two hours.

3 Q. Who was in that meeting?

4 A. My friend here to my right and.

5 MR. SCHNEIDER: Matthew Schneider.

6 THE WITNESS: And we have one other.

7 MS. NELSON: Mark Donnelly just to refresh  
8 his memory.

9 BY MR. SHERWOOD:

10 Q. So it was mark Dowling.

11 MS. NELSON: Mark Donnelly assistant  
12 Attorney General?

13 BY MR. SHERWOOD:

14 Q. Sorry. Who else?

15 A. Just the three and myself.

16 Q. Math Snyder is with who?

17 A. The attorney generals office we had a brief meeting  
18 this morning.

19 Q. Same crew?

20 A. Just the three this morning.

21 Q. I'd like to start talking a little bit about some of  
22 the ledge lay the state legislation. Do you know  
23 what P A for is correct?

24 A. Yes.

25 Q. And my understanding is that was signed into law in

1 March of 2011; is that right?

2 A. I don't recall the specific date but generally

3 speaking, I think that's pretty close.

4 Q. And PA 4 the predecessor to PA 4 was a statute that

5 people call P A 72; is that right?

6 A. Right.

7 Q. Can you just generally describe your role in the

8 drafting or passage of either of those statutes?

9 A. PA 72 is before my time. I believe it was 1990

10 give or take. PA 4, we started talking about it

11 during the transition period. We understood that P

12 A 72 had some limitations so there was a few folks

13 during the transition that started looking at what

14 you could do to Public Act 72 to improve it make it

15 better tool for the state.

16 So my involvement was on the front end at

17 high level thematic direction what would.

18 MR. WERTHEIMER: I'm sorry high level what.

19 THE WITNESS: Thematic. But in terms of

20 specific language or getting under the hood of the

21 actual words that were being incorporated into the

22 bills I had very limited if any role.

23 BY MR. SHERWOOD:

24 Q. So is it fair to say that PA 4 was passed at the

25 initiative of Governor Snyder?

1 A. I don't know the mechanics but I would say -- I mean  
2 we obviously at the administration level were  
3 focused on it and we had ideas about it in terms of  
4 who typically what happens is if the administration  
5 wants a law passed, they will work with the  
6 legislature and find a sponsor and I wasn't part of  
7 that but you assume it probably happened here.

8 Q. Is it fair to say that PA 4 was promoted by the  
9 Governor to the legislature?

10 A. I believe so.

11 Q. Okay. And you talked about PA 4 containing  
12 incompetent improvements. What was it about PA 72  
13 that needed to be improved?

14 A. Well what we found -- typically for a governmental  
15 unit 75 give or take percent of your costs are wages  
16 and benefits which leaves you if you have a unit  
17 that might have a three year collectively bargained  
18 agreement in place that takes 75 percent of the  
19 ability to reduce expenses off the table. It leaves  
20 you 25 percent of the remaining spent. Typically in  
21 government it's very difficult to increase the  
22 revenue side of the equation.

23 So that would be the major theme --  
24 thematic difference I think from 72 to public act  
25 four.

1 Q. So let me make sure I'm hearing you right. Was  
2 there something about PA 4 that enabled the state to  
3 deal with wage and benefit issues that presented  
4 themselves to these local government units?

5 A. Yeah. And I would add also it enabled us to get in  
6 earlier typically if you can get into a situation  
7 earlier you might be able to avoid more drastic  
8 measures that have to be implemented. So I'd say  
9 the primary goal of public act 4 was to allow the  
10 state to have an earlier road in the crisis that  
11 particular school district or cities encountering  
12 and then in the law we spent a lot of time on this  
13 issue about you know the constitutionality of can  
14 you modify a C B A and by the word C B A I use  
15 collectively bargain agreement. But the thought was  
16 that we had two conflicting constitutional  
17 provisions here. One is the prohibition against  
18 impairing of contracts and then the other is the  
19 duty of the state to provide for the public health  
20 safety and welfare so those are your competing  
21 constitutional provisions as I understand it. And  
22 where we came out on that to my memory is that that  
23 if you temporarily modify. The thought you don't  
24 blowup a contract or you permanently change the  
25 terms of the contract in order to deal with the

1 crisis to it protect the public health safety and  
2 welfare. The thought was that the state has the  
3 ability to temporarily modify until the crisis or  
4 emergency is over. To me that's the two primary  
5 differences between P A 72 and PA 4.

6 Q. How is it that PA 4 specifically gave the state more  
7 power to address those issues?

8 A. On the front end I'd have to review P A 72 and  
9 compare it to PA 4 before I would feel comfortable  
10 answering that but P A 72 did not have a provision  
11 that allowed for a temporary modification of the C B  
12 A.

13 Q. Did P A 72 have a provision for the appointment of  
14 an emergency manager?

15 A. Yes.

16 Q. And PA 4 retained that?

17 A. Right and they had two different terms. I think  
18 under 27 it was emergency financial manager under PA  
19 4 it was changed to just an emergency manager.

20 There was another big difference I guess as  
21 well which was my memory is that under schools an E  
22 F M could pursue a Chapter 9 without the Governor's  
23 consent. But not for a city.

24 Q. I'm sorry, I just want to make sure the record's  
25 clear. I'm reading it here. Did PA 4 allow a

1 school board to file Chapter 9 without the

2 Governor's consent?

3 A. I don't believe -- well, again I'd like to look at P

4 A 72 but my memory was.

5 MS. NELSON: He's speaking about PA 4.

6 THE WITNESS: No, under PA 4 both cities

7 and school districts require the Governor's approval

8 for filing.

9 BY MR. SHERWOOD:

10 Q. Okay. Now, I assume your aware that PA 4 during

11 2011 and 2012 was heavily criticized by certain

12 members of the population here in Michigan, correct?

13 A. I recall some of that.

14 Q. And it was referred to as a dictatorship law

15 undemocratic, emergency managers don't answer to the

16 public. Does that sound familiar to you?

17 A. I have a recollection of that, yes.

18 Q. And actually some of that criticism was directed at

19 you, correct?

20 A. Correct.

21 Q. And certainly Governor Snyder as well. Do you think

22 that that was fair criticism?

23 A. I think it's just a harsh reality that when you have

24 a whether it be a school district or a city in the

25 severe financial crisis that you've got to have

1 someone that can make decisions and often times what  
2 you'll find is the governance more in cities maybe  
3 than school districts is makes it very difficult to  
4 navigate through a financial crisis, so I understand  
5 the criticism but the stark reality is that it's the  
6 best path that I'm aware to solve a financial  
7 crisis.

8 Q. Now, PA 4 was submitted for a referendum in November  
9 of 2012; is that right?

10 A. I believe so, yeah.

11 Q. And did you take a position with respect to the  
12 proposed referendum with respect to PA 4?

13 MS. NELSON: Are you speaking in his  
14 official capacity as treasurer or in his personal  
15 because his personal capacity is privileged. I  
16 assume you're speaking in his official capacity as  
17 treasurer did he take a position.

18 MR. SHERWOOD: I never heard a personal  
19 capacity of privilege.

20 MS. NELSON: It's right to vote his right  
21 to vote.

22 MR. SHERWOOD: Okay in your capacity as  
23 treasurer?

24 A. I don't recall. I do recall that there was six  
25 measures on the ballot and there was really no one

1 out there advocating in favor of preserving the law  
2 public act four. But I don't recall if we ever  
3 issued a statement from the treasurer's office  
4 defending public act four.

5 Q. Did you have any conversations with the Governor  
6 about this proposed referendum with respect to PA 4?

7 A. I think we had a few and I think there was as I said  
8 six measures and some were deemed you know you can't  
9 fight a six front battle, right so I think we all  
10 thought PA 4 was a necessary law and we hoped it  
11 would be preserved. But there was other measures on  
12 the ballot and often times the electorate only has  
13 so much attention span, so I think we weren't out  
14 there putting a full court press on to preserve the  
15 law.

16 Q. Why did you think or when you say we, are you  
17 talking about you the treasurer and the Governor,  
18 why did you think that was a necessary law?

19 A. Because in my experience Public Act 72, you know,  
20 wasn't as effective as the residents or the children  
21 in school districts needed and I thought that public  
22 act four was a significant improvement.

23 Q. One of the other criticisms that I read about about  
24 PA 4 was that it protected bond holders over other  
25 types of creditors. Are you familiar with that type

1 of criticism being lodged during the referendum

2 process?

3 A. Not specifically.

4 Q. What about generally?

5 A. I just don't recall. I mean I'm certain it was

6 probably used as a talking point for those that

7 wanted to repeal PA 4 but I don't have a specific

8 recollection of it.

9 Q. Do you remember talking to a publication called bond

10 buyer on line about the referendum to repeal PA 4?

11 A. I've spoken to them several times so I don't know

12 the specific interview that you're referring to.

13 Q. Do you recall saying to bond buyer on line that the

14 criticism of PA 4 reflects a lack of understanding

15 of the municipal market?

16 A. I that sounds like something I would say but I don't

17 specifically recall saying that.

18 Q. Tell me what is it about the municipal market that

19 PA 4 helped.

20 A. Can you restate that.

21 Q. What is it -- how does PA 4 help a city or a school

22 board or a city like the state of Detroit deal with

23 the municipal market?

24 A. Can you read my statement again for me.

25 Q. It says quote that criticism of PA 4 reflects a lack

1 of understanding of the municipal market.

2       Actually I have a copy of it if that will  
3       help?

4 A. That's fine. I think if you can go in and address  
5 issues you're going to make that particular unit  
6 more financially stable, and that's you have a  
7 healthy err community that can provide services.

8 Q. I guess we can mark this as Exhibit 1.

9       No. 1 marked for identification

10 BY MR. SHERWOOD:

11 Q. Sorry about the small type and everything but it  
12 says this is just a something I pulled off line. It  
13 says critics of public act four argue that the law  
14 protects bond holders above other creditors. An  
15 argument that Dillon said lacks an understanding of  
16 the municipal market?

17 A. If this helps having read it.

18 Q. Okay sorry?

19 A. Often times when a unit gets into financial trouble  
20 they can't access the market on their own. So the  
21 way that they can access the market is they'll work  
22 with treasury where we will say all right if you are  
23 going to borrow money we tell the bond money  
24 providers that we will intercept the money, make  
25 certain that you get paid first.

1       So if someone wanted to say that an  
2       unsecured creditors or nonbond creditor of a  
3       community could be par a pa sue on equal footing of  
4       an existing bond holder in that circumstance they'd  
5       be miss guided because when the bond deal got done  
6       for the troubled unit we have an agreement with the  
7       trustee typically that will intercept the revenues  
8       that come from the state to the unit, pay the debt  
9       of the bond and then whatever surplus is left goes  
10      to the City. So once that deal is put in place, you  
11      can't undo it per se and then say well we're just  
12      not going to pay the bond holder so we can put more  
13      money into the City so they can pay their bills.

14       So I think what I'm referring to here is  
15      that situation where there's a trustee in place or  
16      an intercept agreement where the state has an  
17      obligation to make certain that the bond providers  
18      are paid first and once that's in place you can't  
19      undo it.

20 Q. Okay. But an intercept agreement you're I mean  
21      would that be something like a security interest in  
22      a pledged flow of funds from a particular source?

23 A. Can you restate that.

24 Q. By intercept agreement that's not a concept I've  
25      heard before. But I have heard things like

1 collateral, pledge, assignment, security interest.

2 Is that what you mean?

3 A. I think you're too narrow. There's several  
4 different ways to do this. For example, and this  
5 happens in school districts where state aid can be  
6 intercepted first. In Detroit for example there's a  
7 trustee set up that collects the casino revenues  
8 before they go to the City, and that trustee then  
9 transfers those payments to certain creditors of the  
10 City. So sometimes it's a state acting, sometimes  
11 it could be a private entity, a trustee that  
12 receives the monies first and I think there could be  
13 a variety of ways these get structured.

14 Q. Okay. And by saying -- you say I appreciate main  
15 street saying every one should share in the pain but  
16 troubled cities have to structure their deals in a  
17 certain way to get access to the market.

18 So you're saying that with respect to  
19 creditors that have intercept agreements they don't  
20 have to share the pain with main street?

21 A. It's harder for them to I think because they do --  
22 if -- they have a typically in this case and I don't  
23 want to over state it and be too broad but when  
24 there's an intercept agreement in place I think it  
25 effectively serves like a filed lien, like a

1 mortgage on a home. There may be exception is to  
2 that but generally speaking yes and you'll find some  
3 older community before they got in financial trouble  
4 they might have gone out and done unsecured  
5 borrowing. So there's no intercept there. They're  
6 then unsecured and in the pool of all the  
7 unsecures. When you have an intercept I want to be  
8 careful not to say every intercept agreement creates  
9 a secured you know lender but probably most would be  
10 effectively a secured lender.

11 Q. So are you saying that it's your view that to the  
12 extent that a bond holder has an intercept agreement  
13 in a restructuring, particularly in the  
14 restructuring of the City of Detroit, that they  
15 don't have to share the pain with the other  
16 creditors of the City?

17 A. I don't think I understand your question because  
18 restructuring at what point? I mean, a city can be  
19 restructuring before treasury is even involved so.

20 Q. Before or after. At any time. I mean at what point  
21 is it appropriate if ever for the bond holders with  
22 intercept agreements or other special collateral  
23 arrangements to share the pain?

24 A. With the it's my -- I mean some of this calls for a  
25 legal -- a lot of this calls for a legal conclusion

1 but it's my understanding that if you're let's say a  
2 revenue bond holder your typically your a secured  
3 lender, and you're entitled to the revenue streams  
4 is that you negotiated at the front end of the deal.  
5 In Detroit's case you have a lot of revenue bond  
6 holders that are entitled to revenue streams that  
7 come in to pay for water and sewer services. Their  
8 collateral is that revenue stream and if that  
9 revenue stream is inadequate to service the debt  
10 then they could be in harms's way and it's my  
11 understanding that that's how Chapter 9 would deal  
12 with revenue bond holders.

13 There's myriad of different ways, I don't  
14 mean to be evasive but there's a lot of different  
15 ways where intercept agreements can get negotiated I  
16 think that the one as it relates to the casino  
17 revenues in Detroit is rather unique. It may not  
18 reflect kind of a standard borrowing that may take  
19 place going forward. We did a financing a year and  
20 a half ago for Detroit. It was \$137 million deal  
21 and that to my knowledge my staff helped secure that  
22 but that was done with an agreement to intercept  
23 state revenue sharings to make certain that that  
24 debt was serviced. So if the lenders did their job  
25 and got the legal requirements that they need to

1 have the priority the first right to that revenue  
2 stream then they're probably protected. If they  
3 have defects in the legal work or they don't have a  
4 contractual right to that revenue stream they  
5 probably will be treated like any other creditor.

6 Q. Well, all right. So let me just move forward now to  
7 the striking down of PA 4 by the voters of the state  
8 that happened in November of 2012 is that right?

9 A. Right.

10 Q. And as state treasurer, did you have a view on how  
11 if at all this would impact Wall Street's view on  
12 the subdivisions, the government subdivisions of the  
13 state of Michigan and specifically the City of  
14 Detroit?

15 A. At least one and maybe more credit rating agencies  
16 said the fact that the state of Michigan had public  
17 act four on the books was a credit positive. They  
18 viewed it as a favorable environment for lending  
19 into the state. So when it got repealed as it  
20 relates to at least those one, maybe two credit  
21 rating agencies it would be deemed accredited  
22 negative that Michigan now doesn't have that law  
23 which they deemed to be a credit positive on the  
24 books, and we then reverted back to Public 72 which  
25 was in my mind you know a good start but it needed

1 some improvements to be effective.

2 Q. Would the repeal of public act four have any impact

3 on the credit rating of the state of Michigan?

4 A. Indirectly. I mean the state has its own credit

5 rating and its own revenues and expenses and

6 obligations. Local units are stand-alone and have

7 their own responsibilities and obligations, so I

8 would only say it's indirectly. I think if the

9 rating agencies I think if they view that a state is

10 miss managing its local units I think they would

11 view that negatively on the state but it doesn't

12 directly provide a commentary on whether or not the

13 state is going to repay its debt.

14 Q. You said that the markets reflected PA 4 as a credit

15 positive. What was it about PA 4 based on your

16 experience that had a positive impact on the credit

17 rating of the government subdivisions here in

18 Michigan?

19 A. Well, I mean I think we should pull the statements

20 that were issued by the ratings agencies. I don't

21 remember if it was moody standard or poor or fitch I

22 think it might have been Moody's I mean they issued

23 actually statements saying it's a credit positive.

24 I think they pressure auto state that is pro

25 actively managing its finances as well as those of

1 city and school districts.

2 Q. So is it the view of wall street or the credit  
3 markets that where a state has the power to go in  
4 and take over or manage a political subdivision that  
5 is positive from the perspective of the market based  
6 on your experience?

7 MS. NELSON: Compound question form  
8 foundation. Do you want to take about a takeover  
9 you said takeover or manage form foundation.

10 MR. SHERWOOD: You can object.

11 MS. NELSON: Compound.

12 MR. SHERWOOD: Governor Snyder can tell me  
13 if he doesn't understand the question can you read  
14 back the question.

15 MR. WERTHEIMER: It's Treasurer Dillon.

16 THE WITNESS: I got a promotion in this  
17 deposition.

18 MR. SHERWOOD: Hold on let her read back  
19 the question.

20 THE WITNESS: Actually if I give you a  
21 comment maybe you can rephrase it that will make it  
22 easier because you're asking me to say what the  
23 credit markets think and I'm not the credit markets.

24 BY MR. SHERWOOD:

25 Q. I understand that but as state treasurer and a

1 person with substantial experience both in private  
2 life and public life, I think you can give me your  
3 perception of why PA 4 was viewed by the credit  
4 markets as something that was attractive?

5 A. Yeah.

6 Q. And I'd like you to do that?

7 A. Detroit is a good example. The health of your  
8 biggest city has an impact on the health of the  
9 state right, and if you have a city of 700 thousand  
10 folks that don't have access to public safety, kids  
11 can't walk safely to school, there's no lights on,  
12 that's going to have a negative impact on the  
13 state's economy.

14 So my personal opinion is yes, that's a  
15 credit positive if you have a state that pro  
16 actively tries to prevent those types of health  
17 safety and wellness crisis within their state to  
18 have a healthy vibrant city is good to make the  
19 state healthy and vibrant.

20 Q. Isn't it in the first instance the job of the City  
21 government to fulfill those needs and address those  
22 concerns?

23 A. That's how we've set it up.

24 Q. And are you saying that in the case of Detroit city  
25 government did not fulfill those needs?

1 A. I think we've found there are circumstances where  
2 local units have been unable to provide essential  
3 services or gotten themselves too far into debt it  
4 becomes very difficult to navigate out of.

5 Q. What was your understanding of the repeal of PA 4?  
6 How did is that operate practically? Did that mean  
7 based on your understanding that there was no  
8 emergency manager law as of the date of that repeal?

9 A. My memory's the Attorney General told us that upon  
10 the repeal of PA 4. P A 72 was the law that we  
11 should follow.

12 Q. And but didn't -- wasn't that opinion struck down by  
13 the Supreme Court of the state of Michigan?

14 A. I don't recall that.

15 Q. Okay. Was that opinion challenged in court?

16 A. It may have been. I don't recall.

17 Q. And you don't know what the result of that legal  
18 challenge was?

19 A. I don't ever remember that P A 72 was not the law  
20 that we at treasury were supposed to rely upon  
21 during these windows where PA 4 was repealed and  
22 before PA 436 took effect.

23 Q. All right. So let's turn to PA 436 real quick. Why  
24 was PA 436 implemented if P A 72 was in effect.

25 A. Because the same reason we put PA 4 in place. We

1 thought P A 72 could be improved upon. So after the  
2 election there's a few meetings where we really did  
3 gather what were the criticisms of PA 4 and looked  
4 to see if we could improve PA 4 to make it address  
5 those concerns.

6       And then as we had worked with PA 4 for a  
7 period of time, we identified some areas that we  
8 would want to seek improvement and I'll give you one  
9 example. Often times we would want to give the  
10 reigns the power back to the local electeds and in  
11 order to do that under public act four you'd have to  
12 end the emergency. And we were uncomfortable about  
13 that because we were prepared to give -- return the  
14 power before we were a hundred percent certain that  
15 the financial emergency was over.

16       So if you see in 436 what we did was put in  
17 place something called a transition advisory board  
18 and that allows us to transfer power back to the  
19 mayor and the City councils without having to  
20 terminate the emergency status so it allows us to  
21 get out sooner. That would be something we learned  
22 during you know using or relying on public act four.

23       We also looked at you know various  
24 criticisms and we tried to put more local  
25 involvement into public act 436 so for example

1 you'll see if the locals don't like a decision a  
2 material decision being made by a manager, they're  
3 given a chance to come up with better idea. And  
4 there's various ingredients like that that we added  
5 to address some of the criticisms of PA 4.

6 Q. So in enacting PA 436 after the repeal of PA 4, it  
7 was not your view that the legislature and the  
8 Governor were going against the will of the voters?

9 A. I think we tried to accommodate the criticisms we  
10 heard during the campaign.

11 Q. Well the voters didn't they didn't like the E M law.  
12 They thought it was a dictatorship, they thought it  
13 was undemocratic. How specifically did 436 address  
14 the concern of you know the E M law being a dictator  
15 ship?

16 A. Well for example, one of the changes were you know  
17 it wasn't just right to emergency. We had a path  
18 for a consent agreement, we had a path for  
19 emergency, we had a path for a restructuring. And  
20 then the fourth option was an actual Chapter 9 in  
21 case someone was really out of cash.

22 So we tried to create options for the local  
23 units and we tried to give them a chance to come up  
24 with better ideas if they didn't like the plans of  
25 the manager. From the meetings I sat in I think

1 there was a sincere effort to address that. My  
2 memory was that the vote on PA 4 was not a landslide  
3 it was actually there was not anyone advocating for  
4 the protection of PA 4 and the vote was pretty  
5 close.

6 If -- it wasn't one of six ballot measures  
7 and I think it was the only one that you wanted a  
8 vote the other way I forgot whether it was yes or no  
9 kept the law that it was the only one where I think  
10 you had to vote yes to keep it.

11 All the other ones you know, required a no  
12 vote. So it was pretty close vote without one  
13 advocate out there saying why this law makes sense.  
14 In my experience I don't know that a lot of people  
15 spent a lot of time really reading through PA 4 and  
16 why it was necessary.

17 Q. Did any of the changes between PA 4 and PA 436 deal  
18 specifically with the ability of the emergency  
19 manager to file bankruptcy?

20 A. I don't recall if there's differences there.

21 Q. In your discussions with Mr. Orr, did you discuss  
22 with him the differences between PA 4 and PA 436?

23 A. I don't recall. I do know that we spent time  
24 briefing him on how 436 works and I know he spent a  
25 lot of time reading the statutes and I think he had

1 a good understanding of what 436 was. But in terms  
2 of a discussion where we compared the two I don't  
3 recall that.

4 Q. Give me one second. Did you have any role I'm sorry  
5 we okay?

6 VIDEO TECHNICIAN: We haven't gone off the  
7 record.

8 MR. SHERWOOD: Good.

9 BY MR. SHERWOOD:

10 Q. Did you have any role in the drafting of PA 436?

11 A. Not in the drafting but as I indicated earlier there  
12 was some meeting probably late November early  
13 December about trying to address and improve public  
14 act four. So there was some high level themes that  
15 I attended meetings and discussed but in terms of  
16 the actual drafting of language I didn't have any  
17 role in that.

18 Q. Let's mark this as Exhibit 2.

19 Exhibit 2

20 MS. NELSON: Do you have a copy that I can  
21 look at?

22 MR. WERTHEIMER: For the record all of us  
23 have seen this before.

24 BY MR. SHERWOOD:

25 Q. All right so we've marked as D 2 Section 24 of the

1 state constitution. It's just an excerpt of the  
2 constitution which says accrued financial benefit of  
3 each pension plan and retirement system of the state  
4 and its political subdivision shall be a contractual  
5 obligation there have which shall not be diminished  
6 or impaired there by. Are you familiar with this  
7 provision of the state constitution?

8 A. I am aware it existed and I now just read it.

9 Q. Okay. Based on your review and understanding of PA  
10 436, does PA 436 in any way impact Section 24 of the  
11 Michigan constitution?

12 MS. NELSON: Objection calls for a legal  
13 conclusion.

14 MR. SHERWOOD: I just want your  
15 understanding.

16 A. Can you restate the question.

17 Q. During your consideration of PA 436 and your  
18 discussions about it, did anyone ever come out and  
19 say anything like let's try to modify Section 24 of  
20 the constitution?

21 A. No. But when we did public act four we had this  
22 discussion.

23 Q. Okay. What was said in that discussion?

24 A. I asked various lawyers that were involved you know,  
25 how does this shake out? You know you have these

1 you know can you -- the key item of PA 4 that raised  
2 a lot of concerns was the ability to temporarily  
3 modify C B As, and I have a different unit too, so  
4 we discussed this provision when we drafted PA 4 and  
5 the answer I recall getting at the time was that you  
6 have these competing provisions and the  
7 responsibility to provide for the public health  
8 safety and welfare as well as that you can't impair  
9 contracts.

10 And I believe there's a case back in the  
11 thirties and don't hold me to this but I think there  
12 was one case that addressed this issue a long time  
13 ago, so in my mind the issue was resolved for me  
14 during the PA 4 discussions, so when 436 resurfaced  
15 I didn't revisit the discussion but others may have.

16 Q. Was it your understanding based on your experience  
17 and knowledge somehow under the authority of PA 436  
18 that the state of Michigan or the City of Detroit  
19 could disregard the constitutional provision  
20 protecting pension and retirement benefits?

21 A. I'm sorry could you.

22 Q. You can read it back.

23 (Read pending question.)

24 THE WITNESS: Could you read it one more  
25 time?

1 (Read pending question.)

2 THE WITNESS: No I don't think PA 436 gave  
3 you that right. I think you have economic  
4 realities. For example I have a different unit  
5 where their pension fund is funded at less than 10  
6 percent and I do recall asking for legal advice  
7 about if that things runs to zero what happens. And  
8 it's a unit that can't afford to raise taxes or  
9 service that and the memory I have is that yeah it's  
10 still there in the constitution but if the unit  
11 can't pay the pension they can't pay the pension.

12 BY MR. SHERWOOD:

13 Q. Why don't that logic also apply to the bond holder  
14 creditors of the City of Detroit, if the unit can't  
15 pay doesn't have enough to pay its pension  
16 obligations and its obligations to wall street why  
17 doesn't is that logic also apply?

18 MS. NELSON: Objection calls for a legal  
19 conclusion an also speculation.

20 THE WITNESS: I'm not certain that it  
21 doesn't if the unit doesn't have the money to pay  
22 their bond holders there's a problem and I guess  
23 that's what Chapter 9 is for or some type of effort  
24 to resolve it in a it different way. We do that all  
25 the time working with units to see if we can

1 restructure and help them restructure debts that  
2 they may have. But if there's no money to pay  
3 whether it be payroll or a pension or a bond holder,  
4 there's no money.

5 BY MR. SHERWOOD:

6 Q. But I think you testified earlier that you know  
7 because certain bond holders have the protection of  
8 entitlement to revenue streams that they should have  
9 exclusive claims to those streams; is that right?

10 A. I don't know if I said they should have but I think  
11 that if they've done their legal work and they've  
12 got the right to that stream I think the courts will  
13 recognize they have the right to that revenue  
14 stream.

15 Q. By the same token, the holders of vested pension and  
16 retirement benefits have the protection of the  
17 constitution of the state of Michigan which prevents  
18 those benefits from being diminished or impaired in  
19 any way.

20 Why is it that they have to make sacrifice  
21 in the context of a Chapter 9 case but not the bond  
22 holders?

23 MS. NELSON: Objection. Form, foundation  
24 assumes facts not in evidence. There's no plan  
25 that's even been filed to suggest that.

1 MR. SHERWOOD: You can only object to form.

2 MS. NELSON: Form foundation speculation

3 improper hypothetical and assumes facts not in

4 evidence.

5 THE WITNESS: Yeah I mean I think those are

6 decisions that would be made by a judge at some

7 point.

8 BY MR. SHERWOOD:

9 Q. Well didn't the Governor make that decision by

10 appointing the emergency manager?

11 A. I don't believe so.

12 Q. Wasn't one of the purposes of 436 to enable an

13 emergency manager to file Chapter 9?

14 A. I -- I mean it was in P A 72, it was informs in PA

15 4, it was in 436. I don't think that PA 436 changed

16 that. In fact the law we were relying on at the

17 time that was P A 72 that allowed for a filing of a

18 Chapter 9 so I don't think I accept that premise.

19 Q. Let's -- this has been but let's mark it as Dillon

20 3. It's the July 18th, 2013 authorization letter.

21 Exhibit 3 marked for identification

22 MR. WERTHEIMER: It's now Orr 11 Snyder 2

23 and Dillon 3.

24 MR. SHERWOOD: Orr 11 Snyder two and Dillon

25 three. Okay.

1 BY MR. SHERWOOD:

2 Q. Treasurer Dillon I assume you've seen Dillon 3

3 before?

4 A. Yes.

5 Q. Okay. Did you review this in preparation for your

6 deposition today?

7 A. I did take a glance at it, yes.

8 Q. Turning to the last page in the contingencies

9 paragraph, that's a reference to PA 436 it says my

10 approval to the recommendation to commence a

11 Chapter 9 proceeding may place contingencies on such

12 a filing I am choosing not to impose any such

13 contingencies today. Federal law already contains

14 the most important contingency a requirement that

15 the plan be legally executable.

16 Are you familiar with that language?

17 A. I am.

18 Q. Did you help the Governor draft in letter?

19 A. I did not.

20 Q. Did you see it in draft form before it went out?

21 A. I did not.

22 Q. Okay. In PA 436 do you have an understanding of why

23 that legislation provided that the Governor could

24 place contingencies on a Chapter 9 filing?

25 A. I wasn't part of the drafting of the language, so I

1 don't feel that I can answer that question.

2 Q. During the time leading up to the issuance of in  
3 letter on July 18th, 2013, did you have discussions  
4 with anybody about in contingency provision of 436?

5 A. I believe there was a -- yes I did.

6 Q. And who did you have those discussions with?

7 A. I don't recall specifically. I had -- there was a  
8 conference call, I believe, of the Governor's folks  
9 from the Governor's office as well as some from  
10 treasury where we discussed the pros and cons of the  
11 issue and that was you know, days before the  
12 Governor's letter came out. And then I had a brief  
13 conference call with some Jones Day lawyers about  
14 the concept of it as well.

15 Q. All right. So I think you talked about two  
16 conversations?

17 A. I believe that's what I recall.

18 Q. All right. So let's leave out the Jones Day  
19 discussion for now.

20 During the first conversation -- discussion  
21 what was said about in provision in PA 436  
22 concerning contingencies?

23 MS. NELSON: Objection. Attorney-client  
24 privilege.

25 MR. SHERWOOD: Were attorneys present

1 during that conference.

2 MS. NELSON: You need to answer verbally.

3 THE WITNESS: Oh yes yes I believe Mike

4 Gadola was on the conference call.

5 BY MR. SHERWOOD:

6 Q. Who is Mike Gadola.

7 A. He's the Governor's general counsel.

8 Q. Was he there to give legal advice?

9 A. I assume so.

10 Q. All right. But when you were -- when -- you can do

11 nothing but assume he was there. He was just there.

12 He wasn't there providing legal counsel to the folks

13 on the phone?

14 A. That was my understanding that he was the Governor's

15 general counsel and he was advising us on that

16 issue.

17 Q. Did you view the conversation as one that was

18 confidential and privileged? Did you say anything

19 that you wouldn't say if a lawyer was in the room?

20 MS. NELSON: Which question would you like

21 him to answer first? You have two questions there.

22 MR. SHERWOOD: Okay.

23 BY MR. SHERWOOD:

24 Q. Did you view the conversation as confidential?

25 A. Yes.

1 Q. Did you say anything that you wouldn't have said if  
2 a lawyer was not in the room?

3 A. I don't believe so. I don't recall all the  
4 specifics that have discussion.

5 Q. But you do know that the contingency provision of PA  
6 436 was caused on that call right?

7 A. Yes.

8 Q. Then there was a followup call -- when did that call  
9 take place? Can you tell me the date of the call  
10 approximately?

11 A. No but it would be within a week of the Governor's  
12 letter coming out I believe.

13 Q. The call with Jones Day that you also described, did  
14 that happen before -- did that happen later?

15 A. I believe it happened before that conference call.

16 Q. Okay. So first there was a conference call where  
17 Jones Day participated and who was on that call?

18 A. There was -- I don't recall specifically. The call  
19 happened in my office. I probably had one or two of  
20 my staff on the call and then who was on the other  
21 end of Jones Day, I don't recall any names to be  
22 honest with you.

23 Q. Did you ever suggest to the Governor that in  
24 authorizing the filing of Chapter 9 the Governor  
25 should place a contingency on his authorization that

1 prohibited the emergency manager from violating the  
2 constitutional rights of the City's pension and  
3 benefit claimants?

4 A. I don't recall. Having done that.

5 Q. Was that your view?

6 A. I don't believe so. I appreciated that we had an  
7 issue here but I didn't tell the Governor hey you  
8 can't do that without having a contingency in on in  
9 constitution privilege.

10 Q. Did the Governor ever solicit your point of view  
11 with respect to that issue?

12 A. No.

13 Q. Did you ever suggest to the Governor that the use of  
14 the language that set forth in D 3 under  
15 contingencies that the use of that language was a  
16 way to sort of punt the issue to the federal court?

17 A. No I didn't discuss any of in paragraph with the  
18 Governor.

19 VIDEO TECHNICIAN: Secretary Dillon you're  
20 losing your microphone.

21 BY MR. SHERWOOD:

22 Q. So you're not aware of any discussions where the use  
23 of in language in D 3 was viewed as a way to avoid  
24 having to make a decision as to the constitutional  
25 protections for pension benefits and the like?

1 A. The first time I saw in letter was on freep dot com  
2 so I didn't have discussions with the Governor about  
3 in provision.

4 Q. Did you ever discuss just the idea with the Governor  
5 of how it would -- how he would authorize the filing  
6 of a Chapter 9 given the constitutional protection  
7 for vested pension and retirement benefits?

8 A. I don't recall any specific discussion in that  
9 context.

10 Q. What about general discussions in that context?

11 A. Yeah, I don't recall. I mean I may have shared with  
12 him the advice I got about another unit who I was  
13 worried about where I knew that they didn't have any  
14 funding in their pension plan and that when the  
15 money runs out you know the view was that the state  
16 was not liable for making up that difference. We  
17 may have -- I may have shared that opinion I got  
18 from a lawyer that -- I don't remember the specific  
19 date or time or window when that may have been  
20 shared but I'm pretty certain I probably did share  
21 that concept with him.

22 Q. During your conversations with the Governor, did you  
23 either you or the Governor indicate to one another  
24 that you were looking for a way to avoid the  
25 constitutional obligation to not impair the rights

1 of vested pensions and benefits.

2 MS. NELSON: Objection; asked and answered.

3 Go ahead.

4 THE WITNESS: Can you read that question

5 back.

6 (Read pending question.)

7 THE WITNESS: We never had a discussion

8 about the desire to circumvent the constitution in

9 any way.

10 BY MR. SHERWOOD:

11 Q. Can we take a five minute break at this point?

12 VIDEO TECHNICIAN: Going off the record at

13 10:21 a.m.

14 (A brief recess was taken.)

15 Exhibit 4 marked for identification.

16 VIDEO TECHNICIAN: We're back on the record

17 at 10:30 a.m.

18 BY MR. SHERWOOD:

19 Q. Okay Treasurer Dillon, I've showed you what's been

20 marked as Dillon four and I realize these are emails

21 that you probably have not seen before, but they are

22 emails that were sent by the emergency manager where

23 he describes the new E M law as a quote end around

24 the prior initiative that was rejected by the voters

25 in November?

1 MS. NELSON: I'm going to object to your  
2 characterization it was sent by the emergency  
3 manager. At the date of January 31st, 2013 Kevyn  
4 Orr was not the emergency manager.

5 MR. SHERWOOD: Okay. And you can only  
6 object to form and privilege, so please no more  
7 speaking objections.

8 BY MR. SHERWOOD:

9 Q. Would you agree with Mr. Orr's statement on January  
10 31st 2013 that the E M law was a quote end around  
11 the prior initiative that was rejected by the voters  
12 in November?

13 A. I don't. I recall sincere meetings where we  
14 examined what were the criticisms of the PA 4 and  
15 tried to address them in the new legislation.

16 Q. So you don't agree with his characterization?

17 A. No.

18 Q. Do you know if you look down to the bottom paragraph  
19 where Mr. Orr states that although the new law  
20 provides the thin veneer of a revision it is  
21 essentially a redo of the prior rejected law and  
22 appears to merely adopt the conditions necessary for  
23 a Chapter 9 filing. Do you agree with that  
24 statement?

25 A. No because I -- we spoke earlier about the tab

1 added, the four options that the locals have the 18  
2 month window for which an E M can serve. So those  
3 were a sincere effort on the part of the Governor as  
4 well as my staff to address issues that were raised  
5 during the ballot initiative.

6 Q. So you disagree with in statement by Mr. Orr as  
7 well; is that your testimony?

8 A. I disagree with his characterization.

9 Q. Does the new law 436 adopt the conditions necessary  
10 for a Chapter 9 filing?

11 A. I believe it does. I don't have a legal opinion to  
12 that effect but I think it's 72 had it, 4 had it and  
13 I believe 436 has it. So we didn't need 436 because  
14 we had 72 at the time, so --

15 Q. Was there any discussion that you were a part of  
16 where the start date for Mr. Orr was discussed?

17 A. Sure. Yes.

18 Q. And was there ever a discussion about sort of  
19 coordinating the start date for Mr. Orr with the  
20 expiration of the old E M law?

21 A. I don't recall.

22 Q. Do you recall that initially the start date for  
23 Mr. Orr was going to be somewhere in mid March of  
24 2013?

25 A. I believe my memory is his actual start date had

1 more to do with his schedule than ours.

2 Q. Did his start date have anything to do with the  
3 expiration of the old E M law and the I guess the  
4 start date for the new E M law 436?

5 A. I don't believe so.

6 Q. So you weren't party to any conversations with  
7 Mr. Orr or the Governor where it was discussed that  
8 the start date for the E M should sort of coincide  
9 with either the expiration of the old law or the  
10 effective date of the new law?

11 A. I don't recall that discussion. It's not that it  
12 didn't happen, I just don't recall it.

13 Q. Yeah because the effective date of the new law is  
14 March 28th, 2013 and I believe that's the same date  
15 that he was formally appointed?

16 A. My memory is he served three days under 72 give or  
17 take and then the new law kicked in so he actually  
18 served under both is my memory.

19 Q. Okay. Do you -- were you part of the search team  
20 for the emergency manager?

21 A. I don't think we had an official search team but  
22 yes, I was involved.

23 Q. Who else was involved with you?

24 A. Primarily Rich Baird.

25 Q. And were you at the meeting on I think it was

1 January 28th, 2013, at the airport in Detroit where

2 the law firms were interviewed?

3 A. Yes.

4 Q. And Mr. Baird was there as well?

5 A. Yes.

6 Q. And I think Mr. Buck fire was there?

7 A. Most likely.

8 Q. Anyone else on the side of the City and the state

9 that you remember?

10 A. I believe Tom Saxton and Brom Stibitz from treasury

11 were there I believe Chris Andrews and jack Martin

12 from the City were there, I believe we may have had

13 some members of the financial advisory board there

14 there may have been a few others I don't recall.

15 Q. Had you known or heard of Mr. Orr before that

16 meeting?

17 A. No.

18 Q. Why was it that people from the state were at a

19 meeting to select counsel for the City of Detroit?

20 A. Well, the City as you might recall at the time was

21 under a consent agreement, and we were struggling

22 with that and we were bringing in some professionals

23 to help with the City. And December it involved an

24 investment bank and some restructuring firms E and Y

25 and Conway Mack Ken see and then the last piece of

1 the puzzle was the law firm.

2 Q. And before that meeting, where did the search for an  
3 emergency manager stand? How many candidates -- how  
4 many serious candidates did you guys have at that  
5 point?

6 A. Before the what meeting?

7 Q. Before the meeting at the airport with the law  
8 firms?

9 A. At the Jones Day -- I don't recall specifically but  
10 there wasn't a lot. You know, we at that point I  
11 would say we thought we had very few candidates that  
12 A could do it and B were willing to do it.

13 Q. And how did it develop that Mr. Orr was identified  
14 as a candidate? Did it happen at that meeting or  
15 after that meeting?

16 A. I believe it was after that meeting rich called me  
17 Rich Baird called me and said what do you think of  
18 Orr? And it was just a phone conversation is how it  
19 started is my memory.

20 Q. And before that meeting your only knowledge of or  
21 exposure to Mr. Orr was his being part of the Jones  
22 Day pitch team; is that fair to say?

23 A. Right.

24 Q. And your first notice that Mr. Orr was a prospect  
25 was -- came from Mr. Baird?

1 A. Right.

2 Q. Do you know whose idea it was to propose Mr. Orr as  
3 a candidate?

4 A. I believe it was Mr. Baird.

5 Q. And what was your reaction?

6 A. I was favorably inclined to explore it. We had only  
7 met him for I forget how long those interviews  
8 lasted but give or take an hour. So I had never met  
9 him before then so my experience with him is  
10 limited.

11 Q. What was it about Mr. Orr that in your view made him  
12 qualified to be the emergency manager?

13 A. There were two primary attributes that I appreciated.

14 One was he had a restructuring background which  
15 clearly we needed and we'd been struggling in the  
16 City both from an operational as well as a balance  
17 sheet restriction. The other is my experience as  
18 treasurer dealing with emergencies in other cities  
19 it's really important that the manager has the right  
20 personality because there's a way to do the job and  
21 a way that calms the critics and the community and  
22 there's a way to kind of ruffle feathers, and I  
23 liked Mr. Orr's disposition. I thought he would  
24 have the ability to communicate a clear message as  
25 to the reason why what is being done is being done

1 and I thought in many ways that is in large measure  
2 probably the most important requirement.

3 Q. Did there come a time when you expressed your  
4 support of Mr. Orr as the potential emergency  
5 manager?

6 A. Yeah. I had one meeting with him is my memory, and  
7 it was a lunch really. And it was more social -- as  
8 much social as business related, but coming away  
9 from that meeting I was impressed and supportive and  
10 I know rich was doing a lot of the groundwork to vet  
11 him as a potential candidate and I trust rich's  
12 judgment.

13 Q. During those meetings with Mr. Orr did you discuss  
14 the path to Chapter 9 for the City of Detroit?

15 A. No. I think it was more us sharing with him what  
16 our experiences in dealing with emergencies and how  
17 the law works and in a way I think it was more  
18 information coming from treasury to Orr than the  
19 other way around.

20 Q. Do you recognize the Jones Day legal presentation at  
21 the airport on the 28th of January, did Jones Day  
22 lay out to the group a path to Chapter 9 for the  
23 City of Detroit?

24 A. No.

25 Q. Did they provide a written slide show or

1 presentation that laid out bankruptcy issues and  
2 restructuring issues?

3 A. We interviewed six firms that day, I believe. I  
4 don't remember the specifics of any particular  
5 pitch. I do know that Chapter 9 was a discussion,  
6 you know, in probably most all of the firms that we  
7 met with, but I don't -- I have zero memory of any  
8 discussion about a path.

9 Q. And just for the record, I've been saying January  
10 28th, meeting in the airport. I'm told that it's  
11 really January 29th so?

12 A. Okay.

13 Q. So for the record we're talking about the same  
14 meeting.

15 During your discussions with Mr. Orr, did  
16 he -- did you or he address the political issues  
17 that were confronted by the Governor in terms of the  
18 emergency manager statute and treatment of  
19 retirement and pension benefits for the City  
20 employees?

21 A. I don't recall that.

22 Q. You don't recall that at all?

23 A. I don't recall the specifics of our discussion. I  
24 remember the lunch meeting where I think it was as I  
25 said before more of us sharing with him what the

1 role of an E M is like and less -- some lessons that  
2 were learned by us. It wasn't like -- I don't  
3 recall any circumstance where I was with Kevyn and I  
4 felt like I was getting a tutorial about how did we  
5 get into Chapter 9. I don't have any memory of  
6 something like that.

7 Q. But during those discussions certainly you discussed  
8 the pension exposure, the exposure to the pension  
9 and the obligation to pay retiree benefits and the  
10 impact that -- of that on the financial affairs of  
11 the City of Detroit, didn't you?

12 A. We would have discussed the City's cash position  
13 because that was front and center at the time. You  
14 know do they have enough cash to navigate through  
15 the next year was probably the biggest issue. And I  
16 suspect we would have high level discussions about  
17 the balance sheet of the City. But there was no  
18 discussion about how do you circumvent any liability  
19 and there was no talk about hair cutting bond  
20 holders or pensioners or walking away from health  
21 care but there was general discussions I'm sure  
22 about the condition of the balance sheet.

23 Q. And you don't recall any specific discussions with  
24 Mr. Orr in all of your interaction with him where  
25 pension and health care obligations of the City were

1 discussed and planned for dealing with those  
2 obligations were discussed?

3 MS. NELSON: I'm going to object to form  
4 and foundation. Is there a time frame?

5 BY MR. SHERWOOD:

6 Q. Well I guess it would be January?

7 MS. NELSON: You said all his  
8 conversations.

9 MR. SHERWOOD: January 28th through the  
10 filing date of July 18th.

11 MR. WERTHEIMER: Yeah.

12 THE WITNESS: Yes.

13 BY MR. SHERWOOD:

14 Q. So you had discussions with him about those issues?

15 A. Yes.

16 Q. And what did you say and what did he say?

17 MS. NELSON: Well I'm going to object  
18 because that will intrude on attorney-client  
19 privileged communications so your going to have to  
20 parse it out.

21 BY MR. SHERWOOD:

22 Q. Did you have any conversations without counsel  
23 present?

24 A. Yes.

25 Q. Okay. And what was said during those?

1 A. I mean, there was dozens of conversation so it's  
2 hard for me to pick out one particular one and have  
3 a clear memory of what was said.

4 Q. Did you talk about the number, how much of -- how  
5 much the pension was under funded with Mr. Orr  
6 outside the presence of counsel?

7 A. There was discussions about what the funding status  
8 of the pensions was and it was and continues to be a  
9 bit of a moving target, so we discussed that yes  
10 there's a study being done to estimate what is the  
11 current funding status of the pension funds.

12 Q. Did you discuss with him outside the presence of  
13 counsel the cost of health care to the retired city  
14 employees and the impact of that on the City's  
15 finances going forward?

16 A. I'm sure we did.

17 Q. Did you discuss with him the fact that Section 24 of  
18 the state?

19 MR. WERTHEIMER: Article 9 Section 24.

20 BY MR. SHERWOOD:

21 Q. Article 9 Section 24 of the Michigan constitution  
22 provided that financial benefits of each pension  
23 plan and retirement system shall not be diminished  
24 or impaired?

25 A. There was a general understanding that there was a

1 constitutional protection of pensions that was  
2 understood by folks from day one. So I think it  
3 would be a premise that of all discussions that were  
4 had.

5 Q. That was something that you understood, right?

6 A. I understood that there was a constitutional  
7 provision yes.

8 Q. And based on your discussions with Mr. Orr did you  
9 understand that he understood the constitutional  
10 protection?

11 A. I'm -- I believe he understood there was a provision  
12 in the Michigan constitution that addressed in  
13 issue.

14 Q. And certainly the Governor understood that as well?

15 A. I believe he did.

16 Q. And you guys all had that understanding before the  
17 bankruptcy was filed, correct?

18 A. Yes.

19 Q. And was it your understanding in the course of the  
20 restructuring of the City of Detroit that a proposal  
21 was made on June 14th to address those liabilities?

22 A. I attended that and I probably flipped through the  
23 book during the presentation and I believe there was  
24 an area that covered at that topic, yes.

25 Q. And would you describe the treatment of the claims

1 of the pensions and retirement systems as being  
2 diminished or impaired under that proposal?

3 A. I'd like to see it before I comment on it.

4 Q. You'd like to see the proposal?

5 A. The language in there, yeah.

6 Q. While they're looking for it, do you know -- if you  
7 look at -- and I'm sorry everybody's seen this, but  
8 it has been previously marked as Snyder three and  
9 this is the June 14th proposal for creditors, and if  
10 you turn to page 109 there is a underlined bullet  
11 point on treatment of pensions.

12 MR. WERTHEIMER: Just for the record that's  
13 one or another of us line. It isn't on the original  
14 document.

15 MR. SHERWOOD: Yeah.

16 THE WITNESS: I recall this and in my  
17 memory is that the intent of this document was to  
18 layout the facts for the creditors so that they  
19 could understand the financial condition of the  
20 City.

21 BY MR. SHERWOOD:

22 Q. Can I have it back? Oh you lost the page?

23 A. Sorry.

24 Q. That's okay I'll find it.

25 But it does say at the bottom of page 109

1 that given the under funding amount there must be  
2 significant cuts in accrued vested pension amounts  
3 for both active an currently retired employees,  
4 correct?

5 A. That's what the document says.

6 Q. And would you -- is it your view that the -- that  
7 significant cuts in accrued vested pension amounts  
8 for both active and currently retired persons is  
9 consistent with the Michigan constitution  
10 Section 24?

11 A. That's a legal question that in my mind the courts  
12 will decide.

13 Q. Okay. But it's really not a legal question. It's  
14 pretty obvious that it is a violation of the  
15 constitution?

16 A. I don't agree with that.

17 MS. NELSON: Objection; argumentative.

18 BY MR. SHERWOOD:

19 Q. And without giving your -- as a treasurer, as a  
20 former legislator, is it your view or do you agree  
21 that the proposed treatment on June 14th, 2013  
22 providing for cuts in accrued vested pension amounts  
23 for both active and currently retired persons would  
24 be violative of Section 24 of the Michigan  
25 constitution?

1 A. No because that doesn't provide for it. To my mind  
2 and this is how in Governor does business, is he  
3 hires good people and let's them do their job. To  
4 me that document was laying out the facts for  
5 creditors so they could understand the financial  
6 condition of city.

7 Q. So this wasn't a proposal even though it's -- even  
8 though the title of the document is proposal for  
9 creditors?

10 A. I think he's just laying out the facts. This is the  
11 economic reality of the City of Detroit. From there  
12 as you know there was various meetings with various  
13 creditors to discuss can we get this thing settled  
14 out of court.

15 Q. Did you participate in any of those meetings?

16 A. I don't believe so.

17 Q. Were you given reports by the emergency manager as  
18 to how those meetings were going?

19 A. We typically had a weekly either meeting or call  
20 where we were given an update on the status of  
21 events.

22 Q. Who was on the weekly meeting call?

23 A. It would be Kevyn and some of the members from his  
24 team various members of the Governor's office as  
25 well as my office.

1 Q. And what was reported in terms of the progress that  
2 the emergency manager was or wasn't making with the  
3 out of court negotiations?

4 MS. NELSON: I'm going to object to the  
5 extent that it calls for attorney-client  
6 communications. And instruct him not to answer that  
7 in fact is what it calls for.

8 BY MR. SHERWOOD:

9 Q. Did you have any communications with Mr. Orr outside  
10 the presence of counsel?

11 A. Yes.

12 Q. Concerning -- concerning negotiations with creditors  
13 before the Chapter 9?

14 A. Yes.

15 Q. And what did you say during those communications?

16 A. I was mostly just listening because I was getting an  
17 update about how things were going.

18 Q. What was the -- what did he say?

19 A. The only specific memory I have would be the one  
20 dealing with the SWOPS discussions with the SWOP  
21 providers and whether or not there could be a  
22 settlement reached with them.

23 Q. What did Mr. Orr say about the SWOPS?

24 A. He reached an agreement with two of the SWOP  
25 providers that he could get a discount on the monies

1 owed on the SWOPS and that's my only memory of a  
2 specific -- I knew every week that he was meeting  
3 with various creditors but that's the only one that  
4 I remember kind of a specific deliverable for.

5 Q. And do you recall anything else about those  
6 nonprivileged conversations?

7 Did he report that the negotiations were  
8 going well, that they were going poorly, that they  
9 were not going at all, anything along those lines or  
10 do you just recall the specific discussion about the  
11 SWOPS?

12 A. Yeah. I -- there was I think just general comments  
13 that they weren't real productive, right, that we  
14 weren't making progress.

15 Q. Did he say why?

16 A. I'm sure he did but it would require going through  
17 each of the various creditors that he met with at  
18 the time. So I don't have specific memories of  
19 each. The only one I have a specific memory right  
20 now about would be very difficult discussions with  
21 the suretys, the insurance companies, a lot of  
22 unwillingness to embrace what the economic realities  
23 were and then a lot of concern about the number of  
24 retirees and the unions not wanting to represent the  
25 retirees making it difficult to negotiate for 20,000

1 people.

2 Q. Did he say it was impossible to negotiate with all  
3 of the creditors of the City of Detroit? Did he  
4 reach that conclusion in your presence?

5 A. I don't recall the specific words he used but  
6 clearly he was expressing that it was very difficult  
7 to work and negotiate with a pool of creditors that  
8 include 20,000 individuals, yes.

9 Exhibit No. 5 marked for identification

10 BY MR. SHERWOOD:

11 Q. Treasurer Dillon we've marked as Dillon five an  
12 email from you dated July 9th to the Governor and  
13 others. Are you familiar with this email?

14 A. Yes.

15 Q. And it says that Kevyn will meet with the Detroit  
16 pensions tomorrow after all.

17 I want to ask you about the word after all.

18 Was there a suggestion before you wrote this email  
19 that Kevyn was not going to meet with the Detroit  
20 pensions?

21 A. Yeah. I think before that there was some thought  
22 that that meeting was going to get cancelled.

23 Q. And who was going to cancel it?

24 A. My memory is Kevyn might have. There was a lawsuit  
25 that was filed that I think caused some

1 consternation about whether or not he should meet  
2 with them.

3 Q. So initially Mr. Orr was considering not meeting  
4 with the pensions on July 10th, 2013 and then he  
5 changed his mind and decided to meet with them?

6 A. My memory is there was a plan to meet with them,  
7 then some lawsuits got filed which I think he  
8 contemplated not going forward with the meeting and  
9 from reading in apparently he went forward with the  
10 meeting.

11 Q. Going down to the last paragraph it says tomorrow's  
12 meeting could lead to questions directed to you  
13 about your view on in topic.

14 Obviously you is the Governor and the  
15 Governor's view on this topic I assume this topic is  
16 the Detroit pensions. Would that -- is that right?  
17 Am I right saying those things?

18 A. Right.

19 Q. So and then you -- then you say it's too early in  
20 the process to respond to hypothetical questions.  
21 We remain in many ways in the informational stage.

22 Does that mean that at in point in time,  
23 July 9th, 2013, you were still? The informational  
24 stage vis-a-vis the Detroit pensions?

25 A. We were learning things. We were learning about

1 annuity program that the City had offered employees.  
2 We were learning that there was alternative  
3 investments that were made that were not written  
4 down. We were learning what assumptions the City's  
5 actuarial firm was making versus the ones that  
6 Milliman was hired to really appreciate and  
7 understand what was the level of under funding. So  
8 on that date in question I couldn't tell you that  
9 these funds were funded at X percent because there  
10 was too many moving pieces to the puzzle.

11 Q. So your advice to the Governor was in response to  
12 questions about his view on the Detroit pensions was  
13 to just say it was too early in the process and you  
14 were still in the informational stage; is that  
15 right?

16 A. That's right.

17 Q. And this was before the Governor authorized  
18 Chapter 9 filing, correct?

19 A. Correct.

20 Q. Did that -- did your view of the Governor's what the  
21 Governor's position should be change before July  
22 18th in the next week?

23 A. No?

24 MR. SHERWOOD: All right. I'm going to  
25 stop here treasurer. Thank you. I reserve the

1 right if we have time to ask a question or two later  
2 but I think as a courtesy to my -- the other lawyers  
3 here I'm going to turn over the mic to them. Thank  
4 you for your testimony this morning. Should we take  
5 a quick break.

6 VIDEO TECHNICIAN: Off the record 11:02  
7 a.m.

8 (A brief recess was taken.)

9 VIDEO TECHNICIAN: We're back on the record  
10 at 11:06 a.m.

11 BY MR. WERTHEIMER:

12 Q. Mr. Dillon, my name is Bill Wertheimer we've met off  
13 the record I'm going to be asking you some  
14 questions.

15 I represented and represent what we've  
16 called the Flowers plaintiffs, that is one the group  
17 of retirees that filed lawsuits in state court  
18 before the bankruptcy was filed.

19 You indicated early in your testimony that  
20 you were involved in some discussions shortly after  
21 you took office as treasurer about replacing Public  
22 Act 72. Do you recall that?

23 A. Uh-huh. Yes.

24 Q. You need to say your answer?

25 A. Yes.

1 Q. And you talked about competing constitutional  
2 provisions one of them being the constitutional  
3 provision relating to public health safety welfare  
4 correct?

5 A. Correct.

6 Q. As I understand it your focus at the time had to do  
7 with your ability to modify C B As is that right?

8 A. That's right.

9 Q. Would the competing constitutional provision that  
10 you were discussing at the time the impairment of  
11 contracts provision?

12 A. Yes.

13 Q. So it wasn't the provision dealing specifically with  
14 pensions am I right?

15 A. Right right.

16 Q. Okay that's what I thought. Do you recall any  
17 discussions that dealt with the pension provision in  
18 those discussions that led up to public act 4?

19 A. Not specifically and if -- it may have been at the  
20 time but when I look back now my memory is really it  
21 was the two competing ones were the impairment of  
22 contract and the health safety and welfare, so not  
23 that we never discussed nine but those were really  
24 the two that were the focal point for me and it's  
25 very likely that the or Article 9 provision was

1 discussed as well. But I don't have as much memory  
2 about that.

3 Q. You don't have a memory about it.

4 When you were talking after the referendum  
5 where public act four went down and you're now  
6 talking about a replacement for that, were there any  
7 specific discussions relating to the Article 9  
8 provision, that is the one relating to pensions?

9 A. Not to my memory.

10 Q. Do you recall any consideration at all as to whether  
11 you should put any kind of contingencies in the  
12 statute in -- at that point in the statute where  
13 you're giving the emergency manager or the City the  
14 ability to file for bankruptcy?

15 A. I was not part of discussions in that regard. And I  
16 was not close to the actual drafting and movement of  
17 the legislation through the legislature.

18 Q. Okay. You have been would it be fair to say you've  
19 been closely involved in the Detroit situation from  
20 the time you took office in January of 2011?

21 A. Yes.

22 Q. Could you briefly tell us what your role has been  
23 since then and how that role has changed, briefly,  
24 from January of 2011 up to date?

25 A. Yeah. To the best I can because it goes back a long

1 time, there's been a lot of activities in between.

2 Q. I understand and we have got underlying documents  
3 with dates an stuff and titles but I just want kind  
4 of a general framework?

5 A. Just generally speaking Detroit was on our radar  
6 when we came in. We knew it was you know  
7 potentially in trouble. But the first six months I  
8 think that the dealings were rather limited. I  
9 recall we had some issues regarding Flint and DP S,  
10 is that predicated our more active engagement with  
11 Detroit.

12 And then Detroit started to experiencing  
13 you know, cash crunches and one of the consultants  
14 we used at DP S we asked if he would help with  
15 Detroit that was Gora Mahatra (ph.) from Ernst and  
16 young. Really early on the focus was just  
17 understanding the City's cash position an making  
18 certain that they would be able to meet payroll and  
19 their essential obligations. And I had always told  
20 the Governor that to me kind of the trigger number  
21 was if the City got below 50 million in cash, I  
22 would come to him at that point and likely recommend  
23 that we begin a review, an emergency review. And  
24 that was kind of our benchmark. I didn't want to be  
25 in a situation where the City got below 50 then

1 we're starting a review because it might be too late  
2 to help the City at that point. On the early end it  
3 was a partnership with the City and working with  
4 them and then when the cash got tight we moved into  
5 the initial -- there was two reviews, right, the  
6 initial review which I think happened in '11 that  
7 led to a consent agreement.

8 Q. And the consent agreement was when, approximately?

9 A. April, I think of 12.

10 Q. 12?

11 A. Is the memory. And so during that prior to the  
12 consent agreement there was a lot of obviously  
13 negotiations to get to that point so that we had an  
14 understanding. And that the City had the ability to  
15 address their issues on their own and then it wasn't  
16 until December of 12 where I had a meeting with  
17 Chris Andrews but the City had gone through don't  
18 hold me to the number but tens of millions of  
19 dollars of cash from September through December  
20 where their disposable cash was eroding rapidly and  
21 immediately after that meeting I called the Governor  
22 and said I think they're at the \$50 million  
23 threshold and I think we have to commence another  
24 review immediately. I believe that was because the  
25 law had changed so the initial review was no longer

1 valid because it was done under a prior law.

2 So we initiated the new review in December  
3 of 12 which led ultimately to the emergency  
4 manager's appointment. Once the manager was  
5 appointed our day-to-day active role diminished  
6 somewhat.

7 Q. Let me ask you a question about that. Do you have  
8 one on one conversations with Mr. Orr?

9 A. Yes.

10 Q. How often?

11 A. It varies. One on ones would be -- it could be  
12 twice in a week or it could be zero in a week.  
13 Depends what issues are brewing.

14 Q. What about larger discussions with other people  
15 ever, either in person or telephone conferences, how  
16 often with Mr. Orr since he's been appointed?

17 A. We have a standing meeting on months where it could  
18 be face to face or it could be over the phone where  
19 it's just a briefing on what happened last week  
20 what's happening next week where are we.

21 Q. Has your role stayed essentially the same from the  
22 time Mr. Orr took over or did it at all change when  
23 he filed Chapter 9?

24 MS. NELSON: Okay. Form foundation. You  
25 said when he took over and then when he filed

1 Chapter 9.

2 MR. WERTHEIMER: Well there were two  
3 different times and I'm just trying to find out  
4 whether -- go ahead?

5 A. I think it's pretty much the same.

6 Q. Okay?

7 A. When he first came in we gave him time to find out  
8 where the desks were and chairs and gave him time to  
9 assemble and then but the weekly standing meeting  
10 was pretty much a given.

11 Q. At either the weekly meetings or in your one on one  
12 conversations with Mr. Orr, have you ever discussed  
13 with him either the subject of Article 9 Section 24  
14 of the constitution, specifically, or generally the  
15 fact that the state constitution does have some  
16 special protections for pensions, has that subject  
17 matter come up in any of these conversations?

18 MS. NELSON: Objection. Attorney-client  
19 privilege. If you want to go ahead and establish  
20 whether those conversations occurred with or without  
21 counsel, then he can appropriately answer.

22 BY MR. WERTHEIMER:

23 Q. I'll ask you to exclude any conversations where your  
24 counsel was present, so either the one on ones or if  
25 in any of these group meeting you did not have

1 attorneys present?

2 A. I don't have any specific memory of a discussion

3 about Article 9 with Mr. Orr.

4 Q. How about discussions about the fact that there was

5 in state provision that protect pensions?

6 A. I'm -- I presume that it was discussed early on and

7 it was understood by people that there was in

8 provision in the constitution.

9 Q. Including Mr. Orr that is I assume you're saying

10 that this came up in some way in your conversations?

11 A. Yes.

12 Q. Okay. Did it also come up in your conversations

13 that the only practical way to deal with this issue

14 absent getting consent from the 20,000 retirees or

15 the unions on their behalf was a filing of a

16 Chapter 9?

17 A. I don't recall that conversation.

18 Q. Isn't that in fact your understanding, that is isn't

19 it your understanding as you sit here that the only

20 practical way that the state could have dealt with

21 the state constitutional provision other than

22 honoring it and the state coming in and making good

23 on the pensions was for a bankruptcy to be filed?

24 A. Not necessarily.

25 Q. How else as you sit here do you think it could as a

1 practical matter be dealt with?

2 MS. NELSON: Objection calls for a legal  
3 conclusion.

4 BY MR. WERTHEIMER:

5 Q. Go ahead Mr. Dillon?

6 A. There's another unit that I referenced earlier that  
7 has virtually no funding in the pension fund, right,  
8 so I mean my understanding is the law is very  
9 unsettled here right.

10 Q. Which law?

11 A. That the law is unsettled.

12 Q. Just the law generally?

13 A. So if you have a unit that basically exhausts all of  
14 their pension monies and then has no means by which  
15 to honor those pension payments what happens? I  
16 can't sit here and tell you, but I've had  
17 discussions I've asked for legal advice on what  
18 happens and the advice I got was.

19 MS. NELSON: It's attorney-client  
20 privilege.

21 THE WITNESS: Oh okay.

22 BY MR. WERTHEIMER:

23 Q. You know as you sit here -- I'm assuming. I'm  
24 asking, that the Attorney General has filed papers  
25 in the bankruptcy in which he has said that it's his

1 legal opinion that Article 9 Section 24 applies in  
2 the bankruptcy. Do you not?

3 MS. NELSON: Objection to form and  
4 foundation. As we indicated yesterday an Attorney  
5 General opinion has a specific -- you're saying  
6 legal opinion. You're talking about a brief.

7 MR. WERTHEIMER: Margaret you are entitled  
8 to make an objection you are not entitled to  
9 comment.

10 MS. NELSON: Well you're characterization  
11 of a legal opinion is incorrect. So my objection is  
12 form, foundation,

13 MR. WERTHEIMER: That's fine.

14 MS. NELSON: Calls for a legal conclusion.

15 MR. WERTHEIMER: Thank you.

16 BY MR. WERTHEIMER:

17 Q. Could you answer?

18 A. I'm aware that the Attorney General has intervened  
19 but I haven't read his brief and I don't know the  
20 position he's taken.

21 Q. Haven't you read the press reports?

22 A. Yeah.

23 Q. And I mean, you know that the Attorney General's  
24 position is would be fair to say not consistent with  
25 the position that Emergency Manager Orr has stated

1 publicly to the Detroit Free Press and others?

2 A. I don't mean to be difficult but that's an overly  
3 broad statement because in my mind I haven't read  
4 what the Attorney General is saying. He may be  
5 acknowledging that in constitutional provision  
6 exists which I assume is one position. How that's  
7 dealt with in a Chapter 9 proceeding I don't know if  
8 the A G has opined or taken a position on that so I  
9 don't know.

10 Q. Okay. Has the Attorney General ever communicated to  
11 you as the head of treasury the opinion that  
12 Article 9 Section 24 applies in the bankruptcy?

13 A. I haven't discussed in topic with the Attorney  
14 General. And by that I mean the person bill  
15 Schuette.

16 Q. I understand. That's what I thought you meant.

17 Have you had anyone on one discussions with  
18 the Governor about either specifically about  
19 Article 9 Section 24 or generally about the fact  
20 that there is a state constitutional provision that  
21 protects pensions?

22 MS. NELSON: Objection asked and answered.

23 You can go ahead and answer again.

24 THE WITNESS: No.

25 BY MR. WERTHEIMER:

1 Q. The subject has never come up between the two of  
2 you?

3 A. Well you say one on one.

4 Q. You're right I did say one on one. Has it ever come  
5 up in group meetings without attorneys present?

6 A. And what precisely was that again? Can we.

7 Q. A conversation in which you discussed either the  
8 specifics of Article 9 Section 24 or generally the  
9 fact that there is a state constitutional provision  
10 that protects pensions.

11 A. I don't recall.

12 Q. Do you recall that in early July initially two  
13 lawsuits were filed against you in your official  
14 capacity and against the Governor in his that  
15 related to what was going on in Detroit and in  
16 pension provision we've been asking you about?

17 A. That rings a bell.

18 Q. Okay. Did you learn -- do you recall whether you  
19 learned about them the day they were filed and if it  
20 helps they were filed on July 3rd?

21 A. I don't know the exact number but I think their give  
22 or takes a hundred lawsuits again the Governor and I  
23 related to in topic so I'm nervous about saying I  
24 have specific memory on any particular one, but --

25 Q. You mean among these hundred cases you can't

1 differentiate either the Flowers or the Webster case  
2 or the case that the pension boards brought that  
3 specifically dealt with the ability of the Governor  
4 to authorize a bankruptcy in the face of Article 9  
5 Section 24? You really can't differentiate?

6 A. I recall that those suits got filed the day and the  
7 time I got notified I don't recall.

8 Q. Okay? Do you recall learning that there was going  
9 to be a hearing on requests for injunctive relief  
10 that would have somehow precluded the Governor's  
11 ability to authorize a bankruptcy and that that  
12 hearing was scheduled for July 22nd?

13 A. I recall that there was a hearing scheduled I don't  
14 recall the specific date.

15 Q. Okay but you knew about it before the hearing  
16 itself?

17 A. Yes.

18 Q. A week, 10 days before?

19 A. I don't recall.

20 Q. Did you have any discussions internal at treasury  
21 about the fact that there was going to be in hearing  
22 at which a state court judge was going to be asked  
23 to issue injunctive relief along the lines I've  
24 suggested?

25 MS. NELSON: Objection attorney-client

1 privilege. If you want to sort that out because he  
2 does have legal counsel Fred head done.

3 MR. WERTHEIMER: Again let's exclude any  
4 conversations where your attorneys were present for  
5 the purpose of either giving advice or potentially  
6 giving advice.

7 Did you have any conversations excluding  
8 those between the time you learned of the lawsuit  
9 and learned that there was going to be a hearing  
10 later in July?

11 A. I don't recall any conversations where a lawyer was  
12 not present for that topic.

13 Q. So you were -- and how many conversations did you  
14 have about that subject matter with lawyers present?

15 A. I don't recall but I would say three or less.

16 Q. Okay. Did you at any point learn that the  
17 Governor's office planned to -- in conjunction with  
18 the Detroit emergency manager -- planned to file  
19 bankruptcy the Friday before that Monday hearing or  
20 July 19th?

21 A. I was aware that there was a sequence of events, a  
22 time schedule for when things would happen. And my  
23 memory was I wasn't -- I don't know if I wasn't in  
24 Lansing or I wasn't you know having meeting at the  
25 Governor's office during that window and right prior

1 to the filing. I wasn't having meetings in those  
2 three and four day window with them, so I knew there  
3 was a schedule and a timeline, but I wasn't having  
4 direct discussions with the Governor's office.

5 Q. Did you know that the plan was to file for  
6 bankruptcy before the court hearings?

7 A. I -- can you restate the question?

8 Q. Yes. Did you at least know that the plan was that  
9 if the plan went forward the bankruptcy filing would  
10 occur before the hearings that were scheduled in the  
11 cases that had been filed against you and the  
12 Governor?

13 A. I don't remember the sequence of the dates and I  
14 wasn't part of that decision so I --

15 Q. Okay?

16 A. I'd have to see some documents to show yeah this is  
17 the time schedule we discussed on such and such date  
18 and I don't remember the date the hearing was  
19 scheduled on the Flowers case.

20 Q. Let me show you what we marked yesterday at the  
21 Governor's deposition Snyder Exhibit 6. And let me  
22 just direct your -- I'm going to show it to you but  
23 I'm going to direct your attention because there's a  
24 lot of information in the document.

25 It looks to me from the upper right as

1 though in is a document created the 17th of July,  
2 which would have been the Wednesday, and it's a roll  
3 out plan that indicates that the Governor's going to  
4 sign the authorization 8 p.m. on Thursday the 18th  
5 and then the filing is going to be the morning of  
6 the 19th and all kind of events follow that up to  
7 and including fox news Sunday and George Stef a nop  
8 lus and Frank Beck man and you name it.

9 A. Uh-huh.

10 Q. Let me just ask you have you ever seen that  
11 document?

12 A. I don't have a specific memory of it. I think we  
13 met that Monday where the timeline was discussed.

14 Q. The preceding Monday?

15 A. Yeah.

16 Q. Which would have been the 15th? Am I right?

17 A. I believe so.

18 Q. Okay.

19 A. I don't know if in got circulated at that meeting or  
20 was just discussed.

21 Q. Well does it refresh your memory as to what the plan  
22 was?

23 A. Generally speaking, yes.

24 Q. Okay. And the plan was to the Governor would sign  
25 it Thursday night and Orr would file on Friday,

1 right?

2 A. That's my memory.

3 Q. Do you recall that the plan changed at the last

4 minute?

5 A. I believe it may have. Yes. I think it --

6 Q. Were you involved in any conversations with anyone

7 excluding conversations where attorneys were present

8 for the purpose of giving legal advice where anyone

9 gave a reason for that change of plan?

10 A. I was not present for any of those discussions.

11 Q. Did you hear secondhand?

12 A. No.

13 Q. You never heard why Orr moved it up by a day or it

14 was moved up by a day?

15 A. No, and in fact it was -- I'd like to look at my

16 schedule because I don't know if I was even in

17 Lansing during those dates.

18 Q. Okay. But you do -- you have no memory as to ever

19 knowing the reason why it was moved up. That's just

20 what I want to know about?

21 A. I've heard speculation on the street.

22 Q. We're not talking about the street but if the street

23 includes people at treasury?

24 A. No no.

25 Q. Or people in of the Governors office?

1 A. No one briefed me on why the date moved.

2 Q. Okay. I'm going to show you what we had marked  
3 yesterday at the Governor's deposition as exhibit 8.

4 This is an email from you to the Governor a day  
5 before the one that you were previously shown.

6 Could you take a look at that, please.

7 Do you recall sending that email to the  
8 Governor?

9 A. Yes.

10 Q. And would I be correct I guess in my arithmetic that  
11 last Wednesday would have been July 3rd as you begin  
12 last Wednesday.

13 A. That sounds about right.

14 Q. Okay. And for the record, that's when the Flowers  
15 and Webster's cases were filed, on July 3rd.

16 Is that -- would that have been the reason  
17 -- would that be the information you learned on that  
18 last Wednesday?

19 A. I don't believe so.

20 Q. What was it if you recall? There's a reference to  
21 Detroit consultants that's why I am --

22 A. Yeah. No I think in had to do with the level of  
23 funding for the pensions, how it was getting  
24 measured. So I was -- the filing of the suit  
25 wouldn't tie into in comment about their thought

1 about the impact on the ability to pay pensions.

2 So the number was moving about how well

3 funded the pension plans were and there were several

4 issues that we were learning about the annuity

5 program, the failure to write down alternative

6 assets that were on the books, the actuarial

7 assumptions to get to the level of funding, calculus

8 so there was a lot of activity around the pensions

9 in trying to get our arms around it at that time and

10 --

11 Q. Do you recall if you look further down in the first

12 paragraph that sentence that reads I learned today

13 that due to the pension fund's recent suits against

14 you and me -- is that a reference -- can you tell me

15 what that's a reference to?

16 A. I don't have a specific recollection about if it was

17 the Flowers suit or not.

18 Q. It may have been?

19 A. Probably was.

20 Q. Probably was. Okay.

21 And in this email you're telling the

22 Governor in the next paragraph that the consultants

23 think that current pensions have to be cut

24 significantly. Correct?

25 A. I expressed the view of the consultants, yes.

1 Q. Did you agree with that view?

2 A. To me it was -- there's a lot -- to value the level  
3 of funding of a pension fund requires a lot of  
4 assumptions on a lot of different factors and to me  
5 it was very fluid. And I think there was an earlier  
6 email we looked at before where I just -- I think my  
7 advice to the Governor was let's -- we're in the  
8 informational stage so I viewed it that way.

9 I was troubled of trouble know by for  
10 example the annuity program which I thought was very  
11 damning and damaging to the status of pension funds  
12 the 13th checks that go out. There's a lot of  
13 activity that I thought were doing damage to the  
14 pension funds but until I really knew what the  
15 funding status was it was hard to form an opinion  
16 about what the impact would be on retirees.

17 Q. Okay did you have any personal conversations with  
18 the Governor around these issues at in time or was  
19 it just the email -- the two emails?

20 A. From reading the one email it looks like I called  
21 him.

22 Q. Right. Do you remember whether you just left a  
23 message or you had a substantive conversation?

24 A. I think we spoke briefly yeah.

25 Q. What was the content of that conversation?

1 A. It was one of these issues that was bubbling up that

2 I wanted to get on his radar so.

3 Q. Do you remember which one?

4 A. I'd have to guess but it would be in this area that

5 I was referring to but there was one in particular.

6 Q. Are you referring to the Flowers Webster litigation

7 or are you referring to in other litigation you've

8 been talking about?

9 A. Not litigation I think I was referring to the

10 information we were learning about the health of the

11 pension funds.

12 Q. Okay. All right.

13 Did you have any conversations with the

14 Governor about the issue of whether Orr should file

15 for bankruptcy say in the couple weeks preceding the

16 filing.

17 MS. NELSON: Again are you speaking just

18 one on one.

19 MR. WERTHEIMER: One or one or group

20 conversations -- I'm not asking you to violate the

21 attorney-client privilege. I think you understand

22 what we're getting at here?

23 A. Yeah.

24 Q. So my questions you should assume are modified in

25 that respect?

1 A. Yeah so can you restate the question.

2 (Read pending question).

3 THE WITNESS: I have a question for my  
4 lawyer.

5 MR. WERTHEIMER: That's fine if you want to  
6 take a break or just go outside.

7 VIDEO TECHNICIAN: Off the record 11:35  
8 a.m.

9 (A brief recess was taken.)

10 VIDEO TECHNICIAN: We're back on the record  
11 at 11:37 a.m.

12 THE WITNESS: Yeah I don't recall any  
13 conversations with the Governor outside the presence  
14 of counsel on that topic.

15 BY MR. WERTHEIMER:

16 Q. Okay. If you take a look at the July 9 -- do you  
17 have that one in front. That's five, this one here?

18 A. Okay.

19 Q. And let me direct your attention to the first  
20 paragraph. You're telling the Governor that the  
21 emergency manager's going to meet relative to the  
22 pensions the next day and then a couple of sentences  
23 down you say he, meaning Orr will not translate that  
24 into an impact on retirees or employees vested  
25 rights or what share of money's available to

1 unsecured creditors would go to the pension plans.

2       What was your understanding of why Orr was  
3 not going to do that? What's the point and why are  
4 you telling the Governor? That's your attorney's  
5 going to object. That was three questions?

6 A. Okay.

7       MS. NELSON: Yes which one would you like  
8 him to answer.

9       MR. WERTHEIMER: He can do it in order or  
10 however he'd like.

11       MS. NELSON: Well I don't know that he's  
12 going to remember them all by the time he gets to  
13 the last one.

14       THE WITNESS: I mean to me the building  
15 block is what's the funded status. And that issue  
16 was fluid and I think that's the first issue that if  
17 you're going to reach a settlement with your  
18 creditors it's important to understand what's the  
19 funding level. From there you can start to figure  
20 out how do you solve this equation going forward.

21 So I was comfortable with that.

22 BY MR. WERTHEIMER:

23 Q. Well isn't there a political reason to not translate  
24 it into the impact on retirees because the impact is  
25 going to be negative, all we need to do is look at

1 the June 14th creditors proposal to know that, don't

2 we?

3 MS. NELSON: Objection; form foundation.

4 Calls for speculation.

5 BY MR. WERTHEIMER:

6 Q. Go ahead.

7 A. That wasn't my thinking. My thinking was until you

8 really know the funding status it's hard to really

9 understand what the impact may be. So it was more

10 important to understand that first.

11 Q. Okay. I have nothing further. Thank you.

12 MS. NELSON: Is everybody done.

13 MR. SHERWOOD: I have one or two followup

14 can I use in microphone.

15 MS. NELSON: Well you're the retiree

16 committee.

17 MR. GALLAGHER: Retirement Systems.

18 MS. NELSON: Did not issue a subpoena to

19 the treasurer and it's my understanding the parties

20 that didn't subpoena aren't entitled to question.

21 MR. GALLAGHER: Why would they not be

22 entitled to question.

23 MS. NELSON: Because you didn't subpoena

24 the witness. I thought that was in the judge's

25 order.

1 MR. WERTHEIMER: I've got the judges order.

2 MS. NELSON: Not the one that we signed.

3 Isn't that in his discovery order, only the parties

4 seeking the discovery.

5 MR. WERTHEIMER: I'm not sure let me look.

6 MR. SHERWOOD: Do we have to have this on

7 the record.

8 MS. NELSON: No.

9 VIDEO TECHNICIAN: Off the record at 11:40

10 a.m.

11 (A brief recess was taken.)

12 VIDEO TECHNICIAN: We're back on the record

13 at 11:43 a.m.

14 MR. SHERWOOD: Treasurer Dillon jack

15 sherwood again for AFSCME. I have just a few

16 followup things. It wouldn't be too much longer for

17 me anyway.

18 MS. NELSON: Famous last words of a lawyer.

19 BY MR. SHERWOOD:

20 Q. Following up on the sequence of events that led to

21 the -- on the bankruptcy filing timeline, you talk

22 about this July 18th date and you gave prior

23 testimony that you didn't really know what the

24 impact of Flowers and Webster was on that date. Do

25 you recall that discussion?

1 A. Yes.

2 Q. Do you know what drove the filing date of the 18th  
3 in the first place? Was there any compelling reason  
4 to file on July 18th that your aware of?

5 A. We were briefed a few times on the schedule, and the  
6 just there's a lot of event that have to happen post  
7 filing. So I was briefed on it. I don't recall the  
8 specifics other than that the process to go through  
9 a nine is lengthy and there was a desire on the  
10 Governor's part if you're going to do this he wants  
11 it to be fast and efficient. And so we got briefed  
12 on several occasions about a calendar and all the  
13 events that would have to follow.

14 So precisely that date I don't think there  
15 was a specific reason other than there's a lengthy  
16 process involved with this and it was to deal with  
17 that timing.

18 Q. All right. And I think in one of exhibits the  
19 original date reflected the 19th as the proposed  
20 filing date.

21 Do you know when the 19th or the 18th was  
22 established as the proposed filing date?

23 A. I don't recall.

24 Q. Do you know whether it was before July first?

25 A. It was after July first.

1 Q. So it's your clear recollection that the 18th or the  
2 19th was established as the filing date after July  
3 first that's your testimony.

4 A. I don't remember being briefed on a specific date  
5 you know weeks ahead of time I remember.

6 Q. Is it possible that it could have been established  
7 as the filing date before July first?

8 A. If it was, no one told me about it.

9 Q. Are you familiar with the new energy to revest  
10 diversity funds, a/k/a the NERD funds?

11 A. I'm sorry.

12 Q. Are you familiar with an organization called new  
13 energy to revest diversity also known as NERDs.

14 A. I'm aware that this fund exists.

15 Q. Are you aware of the purpose for the fund?

16 A. I don't.

17 Q. Do you know whether any of the funds from NERDs N E  
18 R D S are being used to fund any expenses of the  
19 emergency manager?

20 A. I've read about it in the paper. Rich Baird is  
21 closer to that than I am. He may be able to give  
22 you more precise information.

23 Q. Do you know any of the major donors for the NERDs  
24 fund?

25 A. No.

1 Q. Do you recall meeting with Al Garrett and Ed McNeil  
2 in December of 2012 regarding the City of Detroit?

3 A. I have met with them several times. I have a vague  
4 memory of that.

5 Q. And for the record, who are Al Garrett and Ed  
6 McNeil?

7 A. Al is the head of AFSCME in Detroit and Ed works for  
8 him.

9 Q. Was the last time you met with them December 2012?

10 A. I'm not certain but probably. I think I've seen Ed  
11 since then but I don't recall meeting with Al since  
12 then.

13 Q. During that meeting did you discuss ways to increase  
14 revenues for the City of Detroit to satisfy its  
15 liabilities?

16 A. I don't have specific memory of that but it sounds  
17 familiar.

18 Q. And at that point in time do you recall that there  
19 was over \$700 million owed to the City by various  
20 parties?

21 A. I recall that and I recall that we looked into it  
22 and the information I got back from my staff is that  
23 it's virtually uncollectible.

24 Q. What did your staff base that conclusion on?

25 A. I have a department of collections here within

1 treasury so we have some people that are skilled in  
2 collections. And they looked at what was available  
3 to Detroit and the view of the world was that over  
4 90 percent of these are uncollectible.

5 Q. Did you provide Mr. Orr with access to your people  
6 that worked on collection of in \$700 million?

7 A. Indirectly. I mean we made them available to the  
8 City. That might have predicated Kevyn.

9 Q. What is the basis for the conclusion that in money  
10 is uncollectible.

11 A. Be a variety of reasons. Agings, can't find who  
12 owes the money. It would probably be five or six  
13 different reasons that make up the vast majority of  
14 that conclusion.

15 Q. In this February of 2012, were you involved with an  
16 effort to have attentive agreement with a collision  
17 of unions?

18 A. No but --

19 MS. NELSON: That's all you --

20 THE WITNESS: No.

21 BY MR. SHERWOOD:

22 Q. Did you have any discussions or were you aware that  
23 there was a collision of unions that were working on  
24 a tentative agreement in February of 2012?

25 A. I was aware that the City was working with their

1      unions to negotiate solutions to a wage and benefit  
2      costs.

3 Q.   What if any was your role in connection with that  
4      collision city negotiation?

5 A.   My memory is none until at the came up with  
6      tentative agreements.

7 Q.   What was the view of yourself with respect to the  
8      tentative agreements?

9 A.   I had them reviewed by labor experts and the advice  
10     that came back to me is that they were not something  
11     that should be agreed to.

12 Q.   Why not?

13 A.   A variety of reasons. That it -- fundamental issues  
14     about management versus you know the ability of city  
15     to manage itself with some of the provisions of the  
16     agreements were problematic. We had I don't  
17     remember the number of issues but there was  
18     substantial number of issues that were problematic.

19 Q.   Did you communicate those issues to the coalition of  
20     unions?

21 A.   I don't recall.

22 Q.   Who did you communicate those issues to?

23 A.   To the City. I do recall one meeting I had with Joe  
24     Duncan but that may have been after the fact about  
25     in issue. But our communications would have been

1 with the City itself.

2 Q. Isn't it true that the tentative agreement that the

3 City and the unions were working on would have saved

4 the City money?

5 A. I know that they believed it would.

6 Q. And you didn't agree with them?

7 A. The advice that I got from the people I had reviewed

8 in for me we shouldn't support these tentative

9 agreements because they won't work. They won't help

10 solve the City's problems.

11 Q. In fact you didn't -- or the Governor didn't support

12 the tentative agreements; isn't that right?

13 A. I don't know if the Governor had any role with

14 respect to the tentative agreements.

15 Q. So that was your decision to make?

16 A. Yes.

17 Q. And you decided not to support these tentative

18 agreements with the union, correct?

19 A. Correct?

20 Q. Even though those tentative agreements might have

21 saved the City money?

22 MS. NELSON: Objection; asked and answered.

23 BY MR. SHERWOOD:

24 Q. Do you recall whether health care savings were

25 negotiated as part of that tentative agreement with

1 the unions?

2 A. I'd have to review them to recall that.

3 Q. You don't recall whether health care savings for the  
4 City was part of the tentative agreement  
5 negotiation?

6 MS. NELSON: Asked and answered.

7 THE WITNESS: I don't recall.

8 MR. SHERWOOD: Okay I just wanted to make  
9 sure.

10 BY MR. SHERWOOD:

11 Q. What about efforts to use amnesty as a means of  
12 collecting funds by the City? Has that been  
13 explored?

14 A. I believe the City did it.

15 Q. Was it done in 2012?

16 A. I -- I don't recall.

17 Q. Have any -- with respect to 700 million dollars  
18 worth of receivables that we talked about, has any  
19 effort been used to use amnesty as a means to  
20 collect that money?

21 A. I recall that the City put in place an amnesty  
22 program. Whether any of those receivables in that  
23 700 million were collected through that program I  
24 can't answer.

25 Q. When was the last time the City implemented an

1       amnesty program?

2 A. I don't know.

3 Q. Was one -- has one been implemented since December  
4       2012?

5 A. I know that they did one recently. I don't recall  
6       the date.

7 Q. Okay. Now I'm really done. Thank you.

8           MS. GREEN: Hi Mr. Dillon I'm Ms. green I  
9       represent the retirement systems for the City of  
10      Detroit. Following up with the prior line of  
11      questioning you said you think you were traveling  
12      the day the petition was filed? Is that correct?

13 A. I don't recall.

14 Q. Do you recall where you were when you first found  
15      out the petition was filed?

16 A. No.

17 Q. Were you not aware that day that it was going to be  
18      filed?

19 A. I knew from the meeting on the Monday that there was  
20      a schedule and I had no reason to believe that that  
21      schedule would change or not change, so I was not  
22      aware of any changes until after it happened.

23 Q. So was it a surprise when you found out that the  
24      petition had indeed been filed?

25 A. It wasn't like there was in iron clad schedule that

1 wasn't movable, so I don't think I really gave it a  
2 lot of thought.

3 Q. You mentioned earlier that the first time that you  
4 saw the Governor's authorization letter was on line  
5 on freep dot com. Do you recall?

6 A. Nodding.

7 MR. WERTHEIMER: You need to say your  
8 answer.

9 THE WITNESS: Oh yes.

10 BY MS. GREEN:

11 Q. Do you remember where you were or what time it was  
12 that you were reading about in that the petition had  
13 been filed?

14 A. Vague recollection. I was in the Detroit area when  
15 I read it. The letter was addressed to me so I  
16 imagine it came in hard copy but the first time I  
17 read it was on line.

18 Q. Would have been that night do you recall?

19 A. I don't recall.

20 Q. Did you not see the email prior to the filing that  
21 had sent the authorization letter?

22 A. I don't recall.

23 Q. Do you recall getting the email with the  
24 authorization letter?

25 A. I do not. In fact, I don't know if it came via hard

1 copy or email.

2 Q. You testified earlier that you did not have a role  
3 in drafting PA 436. Who was involved in drafting it  
4 as far as outside counsel?

5 A. I guess I would be to be -- 436? I want to be  
6 careful. There was meetings let's say late  
7 November, early December with me and some folks in  
8 my staff as well as the Governor's office where we  
9 talked high level about how could we address some of  
10 the issues that led to the repeal of PA 4.

11 Once those themes were kind of framed out  
12 then it would be handed off to folks on my staff as  
13 well as the Governor's staff that moved legislation  
14 through the legislature. And my involvement in any  
15 nuance from that point was pretty much over.

16 Q. So you don't know?

17 A. I can name some of the people that were part of  
18 that.

19 Q. Okay who would that be?

20 A. Howard Ryan on my staff Brom Stibitz an the  
21 Governor's office I can only guess who it was but  
22 you know there's someone responsible for dealing  
23 with the legislature I assume he was involved.

24 Q. Who was that?

25 A. Dick Posthumus.

1 Q. What about with respect to PA 4. You said you  
2 didn't have a role in drafting PA 436 but what about  
3 PA 4?

4 A. It would be the same. High level you know  
5 directional and then pretty much the same team I  
6 just described would have been the arms and legs on  
7 the ground executing the process through the  
8 legislature.

9 Q. Do you know who outside of the legislature or  
10 outside of the state of Michigan would have been  
11 consulted with respect to PA 4?

12 A. Well during the transition if it's lawyers can I  
13 disclose lawyers?

14 MS. NELSON: With respect to PA 4 is that.

15 THE WITNESS: Initial formation of PA 4.

16 MS. NELSON: If they're attorney-client  
17 privileged communications no they're privileged.

18 THE WITNESS: Yeah. So some were lawyers  
19 and then some were just people that were on the  
20 transition advisory board. Like Bob Daddow was  
21 involved Mark Murray was on the treasury transition  
22 aspect. Brom Stibitz from my staff was involved. I  
23 don't recall -- Dick Posthumus involved I believe.  
24 I don't recall others that were nonlawyers that were  
25 part of the consultants.

1 BY MS. GREEN:

2 Q. Did you have any restructuring consultants that took  
3 part in the process?

4 A. For PA 4.

5 Q. Yes?

6 A. I don't recall that.

7 Q. Isn't it true that Jones Day actually provided you  
8 with review and comment of PA 4 at certain times?

9 A. No.

10 Q. Did they write memos to you regarding PA 4 or any of  
11 the topics related to the pensions or Chapter 9?

12 A. I don't recall.

13 Q. Were you involved in an R F P process relating to  
14 either Chapter 9 the pensions or the emergency  
15 manager law in 2011?

16 A. Can you restate the question.

17 Q. Were you involved in an R F P process in 2011  
18 relating to either PA 4 or the emergency manager  
19 law?

20 A. We did an R F P process here in treasury that you  
21 could say was related to PA 4 to get a short list of  
22 firms that we could work with when we have a crisis.

23 Q. And who were they at that time?

24 A. And there's a list. We can provide and I could name  
25 some of the firms that were on it but not all.

1 Q. Was Jones Day one of the firms that was looked at  
2 during the 2011 R F P process?

3 A. No.

4 Q. Is it possible that they would have submitted an R F  
5 P related to that and you just didn't know about it.

6 A. It's possible.

7 Q. Do you remember having conversations with Jones Day  
8 attorneys relating to PA 4 in 2012?

9 A. No.

10 Q. If there's an email dated 3-2-2012 from Jones Day  
11 that just said we spoke to someone in Andy's office,  
12 do you recall those types of conversations back in  
13 2012?

14 A. Can you show me the --

15 Q. Yeah. I only have one we just got it a day ago so I  
16 apologize I don't have copies for everyone. We  
17 copied some of them?

18 MR. SHERWOOD: Is it Bate stamped.

19 MS. GREEN: It is.

20 MR. WERTHEIMER: Can you identify it.

21 MS. GREEN: Yeah.

22 THE WITNESS: Yeah the only person I recall  
23 knowing prior to 2013 from Jones Day was Corinne  
24 Ball.

25 BY MS. GREEN:

1 Q. What about heather Lennox (ph.)?

2 A. I don't think I met her prior to 2013.

3 Q. Yeah can we mark that -- well the problem is I only

4 have one copy and it has my handwriting on it

5 because we just got the document but I can state for

6 the record the Bates number if that's appropriate.

7 We can have an agreement on that.

8 The Bates number is D T MI 00234878 to 880

9 is the last page.

10 MR. SHERWOOD: D T MI 00234.

11 MS. GREEN: 878.

12 MR. WERTHEIMER: Why don't we just mark it

13 and you can identify that it should not include any

14 of the underlining and handwriting.

15 MS. NELSON: Well why don't we just have

16 her produce one that doesn't have handwriting on it

17 and mark it.

18 MR. WERTHEIMER: That would be fine too.

19 MS. NELSON: And mark it. What's the next

20 one, six?

21 MS. GREEN: I do have copies of the next

22 one which we can mark as Exhibit 7.

23 No. 7 marked for identification.

24 BY MS. GREEN:

25 Q. Do you recognize in email?

1 A. Yeah, okay. I mine I forgot about this but I think  
2 when we were working on the consent agreement we  
3 were seeking advice from Huron consulting and miller  
4 buck fire. They used various law firms on occasion.

5 And in this case I don't know that I ever actually  
6 met heather other than maybe over the phone but we  
7 were through Huron or through miller buck fire we  
8 were getting advice from various law firms Jones Day  
9 being included.

10 They weren't a vendor or to the treasury  
11 department.

12 Q. And did Jones Day also weigh in on the drafting in  
13 preparation of the consent agreement?

14 A. From my reading of this, they did.

15 Q. Do you recall receiving a black line copy from Jones  
16 Day at any time relating to the consent agreement  
17 between the City and the state?

18 A. I don't recall. We may have but we had counsel  
19 representing us and this may have been just friendly  
20 free advice, but there's other people that can  
21 answer that question more precisely than I.

22 Q. Do you recall getting any free advice, any memos  
23 given to you by Jones Day during in process?

24 A. I'd have to look in my files to know.

25 Q. Do you know if any of those memos have been produced

1 by the state of Michigan in this case?

2 A. I don't know. I'd have to look.

3 Q. Would you recall if any of those memos were related  
4 to Chapter 9 filing or the pension obligations of  
5 the City of Detroit?

6 A. I don't recall any memos covering those topics.

7 Q. During the vetting process for the City of Detroit's  
8 restructuring counsel, were you involved in the  
9 interview on the 29th of the law firms.

10 A. Yes.

11 Q. I should have restated it. Were you involved in  
12 putting together the list of questions that would be  
13 asked of the law firms on the 29th?

14 A. I don't believe so.

15 Q. Do you recall the interview topics that were asked  
16 of the law firms on the 29th?

17 A. I don't recall. I mean, we had a group I described  
18 earlier in deposition who was there. I think  
19 everyone was felt free to ask the questions that  
20 they had.

21 Q. Do you know who was responsible for putting to the  
22 list of interview topics for the law firms at the  
23 29th meeting?

24 A. I don't think it was that structured. I think  
25 miller buck fire played a significant role in who

1 was invited and the City worked with them and may  
2 have added some names to who was invited.

3 I don't remember walking in with any  
4 proposed questions to ask. We did have huge volume  
5 of submissions from each of the firms.

6 Q. And the state is paying in part the professional  
7 fees that are being incurred by the City of Detroit  
8 in the Chapter 9 process, correct?

9 A. We agreed to pay half of the cost up to five million  
10 prior to the bankruptcy filing.

11 Q. And after the bankruptcy filing?

12 A. Then we suspended contributions. There may be one  
13 exception to that. I don't recall specifically but  
14 there might have been one vendor contract we  
15 supported after the filing.

16 Q. Do you know which one that would have been?

17 A. I'd have to check.

18 Q. Were you familiar with an email from the treasury  
19 department sent the Milliman report to the local  
20 media?

21 A. Can I see it?

22 Q. Yeah. This can be eight?

23 MS. NELSON: Is in your only copy.

24 MS. GREEN: No there's several in there.

25 MS. NELSON: Are you going to mark it.

1 MS. GREEN: Eight.

2 No. 8 marked for identification.

3 BY MS. GREEN:

4 Q. Who is Terry Stanton from the treasury department?

5 A. He works for treasury. He's a public information  
6 officer.

7 Q. So he's one of your employees?

8 A. Yes.

9 Q. Have you ever seen the email that's in front of you?

10 A. I don't believe I have.

11 Q. Were you made aware after the fact that Mr. Stanton  
12 had leaked the Milliman report to Mr. Pluta?

13 MS. NELSON: Objection form foundation to  
14 the term leaked.

15 BY MS. GREEN:

16 Q. You can still answer.

17 A. Can you restate the question.

18 Q. My question was were you aware after the fact that  
19 even if you didn't see in email, were you aware that  
20 Mr. Stanton had provided the Milliman report to the  
21 news media?

22 A. I imagine he would have advised me that he did in or  
23 was going to do it.

24 Q. So if you read the email it does state that the  
25 Milliman report was incomplete at the time that it

1 was provided to the media and it states being done  
2 solely off the record and it's critical this  
3 information is not traced back to the department  
4 because it has not been finalized.

5 Is it the practice of the treasury  
6 department to allow admittedly incomplete  
7 information regarding the pensions to be leaked to  
8 the media.

9 A. I would say it's unusual.

10 Q. Why would it be critical as stated in the email for  
11 the Milliman summary that Mr. Stanton had asked for  
12 to be deleted and not in connection to the treasury  
13 department?

14 A. Does it say deleted in here? Oh yeah I see okay. I  
15 assume he didn't want to -- yeah, he thought it was  
16 out there with other news media. Rick Pluta must  
17 have been asking about it, so he shared with them  
18 that which he thought other media outlets already  
19 had.

20 Q. You mentioned that there was a cap for the fees that  
21 the state would pay in connection with the  
22 Chapter 9. Have we reached?

23 A. Actually you mischaracterized it.

24 Q. I'm sorry what was your?

25 A. We offered to pay 50 percent of consulting fees

1 prior to the filing.

2 Q. Up to five million?

3 A. Up to five million.

4 Q. And so in June of 2013 that would have been prior to

5 the filing and the state was still contributing to a

6 portion of those fees correct?

7 A. I believe so.

8 Q. We can mark this as Exhibit 9.

9 Exhibit 9 marked for identification

10 BY MS. GREEN:

11 Q. Do you recall sending this email?

12 A. I do.

13 Q. Is it safe to say the five million dollar cap has

14 been maxed out?

15 A. What I was reviewing was both the forecast as well

16 as the historical, so I was looking at more than

17 just the history.

18 Q. So what is the summary of fees that you were

19 referring to?

20 A. We were given an estimate of what the fees were

21 looking like and I reviewed it and wasn't very

22 happy.

23 Q. The last question is relating to Exhibit 5 which has

24 already been marked. It's the July 9th email.

25 The email states tomorrow's meeting could

1 lead to questions directed to you about your view on  
2 in topic. It's relating to the pension issue.

3 Is that a fair characterization of the  
4 email?

5 A. Right.

6 Q. In my view it's too early in the process to respond  
7 to hypothetical questions we remain in many ways in  
8 the informational stage. I have some thoughts as to  
9 how you could address some pointed questions if  
10 you're interesting in hearing them.

11 What pointed questions were you expecting?

12 A. Anything from -- well, going back in time here but  
13 just obviously the whole gamut of questions  
14 regarding what the underfunding status to mean to  
15 retirees, and I thought that the situation was not  
16 understood enough for the Governor to go on record  
17 yet because I couldn't even tell him with any degree  
18 of confidence what level of funding these pension  
19 funds had, so why should he get in the middle of a  
20 debate about this. It's obviously very charged and  
21 sensitive issue. And it was my free political  
22 comments to him.

23 Q. And in was really just over a week before the  
24 filing, that was your stance?

25 A. Yeah. Obviously. But I don't -- I think it was in

1 the context of this meeting that Kevyn was going to  
2 have with the committee that drove this email.

3 Q. Did anything change between the ninth and the filing  
4 on the 18th that changed your opinion regarding what  
5 you I believe just stated was too early to tell him  
6 with any degree of confidence what level of funding  
7 the pension funds had I believe is what you just  
8 stated.

9 A. Yeah, I have not -- my opinion is pretty much the  
10 same.

11 Q. The last sentence of the email says I have some  
12 thoughts as to how you could address some pointed  
13 questions if you're interesting in hearing them.  
14 What were your ideas for how to answer the  
15 questions?

16 A. I don't recall specifically at this point.

17 Q. Did you ever have a conversation with him regarding  
18 your thoughts on how to answer the questions?

19 A. No.

20 Q. You mentioned in the email because pensions have  
21 such a long life there are a lot of creative options  
22 we can explore to address how they will be treated  
23 in restructuring. What were your creative options  
24 that you had on the table?

25 A. There's dozens. I mean, I don't have one that I

1 would pick out. But pension funds do have a long  
2 life and there's a lot of creative things that can  
3 be done, so I -- I don't have one or two that I  
4 would just throw out but I do know that there's a  
5 lot of ways to address that issue.

6 Q. Have there been any formal reports or proposals  
7 identifying and explaining what you consider to be  
8 these creative options?

9 A. No.

10 Q. Were these creative options ever explored with the  
11 pension systems directly?

12 A. Not to my knowledge.

13 Q. To your knowledge? I don't have any further  
14 questions.

15 MR. SHERWOOD: Anybody else have questions?

16 MR. WERTHEIMER: I do not.

17 MR. SHERWOOD: I have one question about D  
18 7 which I hadn't seen before the deposition. It's  
19 an email to you from heather Lennox. I just want to  
20 know what your understanding of the sentence many  
21 provisions in here are designed to take advantage of  
22 PA 4 while it is still in existence. But this also  
23 references other state laws that would buttress the  
24 F C P and PC A powers.

25 What is F C P -- what is your understanding

1 of what F C P and PC A powers, what that means?

2 A. F C B I don't know. She might be referring to

3 financial control board but as opposed to the FAB

4 I'm surmising.

5 PC A is not ringing a bell either.

6 MR. SHERWOOD: At this time there was a

7 financial control board in existence, right?

8 A. No, I think that -- well, I think it was part of the

9 financial stability agreement the creation of the

10 FAB I think.

11 Q. And PC A you don't know what that means?

12 A. I'm not recalling offhand, no.

13 Q. Was it -- did you express a desire to buttress the

14 powers of the financial control board and insulate

15 those powers from attack in the event of a repeal?

16 A. Can you restate the question I'm sorry.

17 Q. Was it -- were you interested at this point in time

18 in March of 2012 to take steps to buttress the power

19 of the financial control board and insulate those

20 powers from being attacked in the event PA 4 was

21 repealed?

22 A. I don't know if buttress was the right word if

23 you're going to put in place all the structurings of

24 a consent agreement with the City there's other ways

25 -- other legal basis to do that through inter local

1 agreements. There's other laws that we could look  
2 to that would give us the authority to have this  
3 agreement have meaning to it. So the thought was  
4 identify all those legal arguments that would give  
5 legal standing to the financial advisory board and  
6 the consent agreement is my memory.

7 MR. SHERWOOD: That's all.

8 MS. NELSON: All right we're done thank  
9 you?

10 A. Thank you.

11 VIDEO TECHNICIAN: Deposition concluded at  
12 12:23 p.m.

13 UNCERTIFIED ROUGH DRAFT

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